

Licensing Sub Committee

Tuesday 24 September 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), Catherine Fox (Lawyer – observing), Rachael Harris (Senior Environmental Health Officer), David McIndoe (Police), Rhodri Morgan (Environmental Health Officer), Fred Prout (Senior Licensing Officer), Helen Rickman (Democratic Support Officer).

The meeting started at 10.10 am and finished at 5.15 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.

19. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

20. DECLARATIONS OF INTEREST

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

21. CHAIR'S URGENT BUSINESS

There were no items of Chair's Urgent Business.

22. COOPERAGE, 134 VAUXHALL STREET, PLYMOUTH - GRANT OF PREMISES LICENCE

The Committee having –

- (a) considered the report from the Director for Place;
- (b) heard from the applicant that:
 - as the building had been empty for some time the applicant wanted to reopen it as they considered it to be a viable business. Their intention was to run the premises without causing a disturbance to their neighbours and would work with local residents to ensure no problems were caused by the operation of the premises. They considered that the premises would be an asset to the community;

- the premise was not within the cumulative impact zone;
- they were looking to attract a mixed clientele;
- the premises would operate in three different areas. There would be a wine bar where soft music would be played, a function room and a back room where live music would take place. These three areas would not operate with music at the same time as they would compete against each other. There would not be any raves at the premises;
- in light of the objections from local residents the applicant stated that live music would cease at 12.30am and from that point onwards wind down music would be played;
- the sound system which had been within the premises would be replaced with a smaller one and speakers would not be on the party walls. These measures would prevent the noise disturbance which residents had previously suffered. Additionally they were prepared to have a sound limiter;
- they had undertaken some sound insulation works and would undertake further ones as they became necessary. However they were unable to supply sufficient details to allow environmental health to be able to comment on whether the insulation would be sufficient;
- they did not know what the acoustic properties of the building were at present and that they may need to make further alterations if there were problems with noise;
- the capacity of the premises would be 1000 people however the applicant did not envisage this number attending and considered that 750 people would be more realistic. They stated that the capacity figure may need addressing;
- there would be eight CCTV cameras inside the premises and eight CCTV cameras outside. This would be well advertised. The monitor would be in an office on the first floor but would not be monitored by staff continuously;
- they would ensure that they had sufficient doorman to deal with the number of people on the premises;
- the closing time of the premises was earlier than nearby premises to help with the dispersal of patrons;
- some events would be ticketed;
- they would have two different entrances to cope with any queues; maybe a pre bought ticket entrance and a pay on entry entrance;

- they did not believe there would be queues as they considered that people would drift in and leave in dribs and drabs;
 - there would be two free of charge telephones within the premises which would help with dispersal;
 - patrons would not be allowed to take drinks outside and door staff would be responsible for managing this;
 - the roof terrace smoking area would have a capacity of 100/120 people however they would cap it at 30;
 - they would erect a fence around the roof terrace smoking area to stop litter being dropped into the garage below and to stop people jumping across into the neighbouring garden;
 - they would limit the use of the smoking areas to 30 people at a time and they would be monitored by door staff/staff however they acknowledged that they would not be able to prevent people talking in these areas;
 - this was a 'suck and see' situation and if granted the licence they would work with local residents to sort out any issues;
- (c) heard and considered written representations under the licensing objectives as detailed below:

Prevention of Crime and Disorder:

The Police told the committee that:

- (1) by way of background information the premises was on the periphery of the Cumulative Impact Area and the majority of crime occurs in the area 7pm and 7am the next morning (ENTE period). The premises last operated as a nightclub in 2006. They provided figures which showed that in 2010, 87 alcohol related and violent crime offences were committed within the ENTE period (76% of that sort of crime within that area), in 2011, 66 such offences within the ENTE period (72% of that sort of crime within that area) and in 2012, 79 such offences were committed within the ENTE period (74% of that type of crime within that area);
- (2) the police had concerns in relation to patrons congregating on the pavements outside. They said that if the premises had a capacity of about 500 (although the applicant confirmed the capacity would be 1000) patrons queuing would occupy a large part of the public pavement and this could spill onto Sutton Harbour. This would increase the potential for public disorder and anti social behaviour bearing in mind that it was likely that those attending will already have been drinking.

The police did not consider that the applicant had indicated in the operating schedule how they intended to manage the problems associated with the queues; the committee considered that this was relevant and took into account what the applicant had said in that they didn't believe that queues would form; the committee felt that the applicant's belief was unrealistic. The committee considered that due to the geography of the area and the narrowness of the pavement and surrounding lanes there was no suitable location for queues to be safely managed and that even having door supervisors would not resolve the potential issues with crime and disorder and public safety;

- (3) additionally the Police raised concerns in relation to the smoking areas which were to be situated on three different levels, the first and second smoking areas were to be situated at the front of the premises on Vauxhall Street and at the rear on Sutton Harbour respectively. The police were concerned that the proximity of smokers to the passing pedestrians would substantially increase the potential for aggressive/boisterous and noise interaction which had the potential to have a significant negative impact on levels of alcohol related violence, disorder and anti-social behaviour. They stated that due to the narrowness of the pavement at the front of the premises it was totally unsuitable for use as a smoking area and it would lead to pedestrians being forced into the road. In relation to the third smoking area which was positioned on the roof the police raised concerns that there was nothing within the operating schedule to say how the area would be controlled by the management. They were concerned that articles could be thrown down from the roof possibly injuring people below. The police were concerned that there was an over reliance on CCTV; the committee considered this to be relevant and were not satisfied that these areas could be policed by the applicant and they did not have a clear and coherent plan. Due to the geography of the area the premises was situated in there was no suitable place for a smoking area without having a knock on effect on crime and disorder and public safety as outlined by the police. This was especially so when they considered the information from Environmental Health that there was a potential for 20% of the capacity of the premises to be smokers;
- (4) finally the Police explained that the premises were close to several residential properties and that the effect of 1000 people entering and exiting until 0230 hours would inevitably generate noise, anti social behaviour and alcohol related crime. The police did not consider that there was sufficient detail as to how the premises would deal with the dispersal of patrons at the end of trading. They were concerned that as there was no designated taxi rank within Vauxhall Street this may lead to taxis routinely stopping and creating problems with free flow of traffic along Vauxhall Street but also that people waiting for taxis would generate noise, litter and public order issues. Also the police considered that the dispersal policy proposed was ineffective as it did not specify numbers for door supervisors and what would happen when the customer leaves the premises. In their opinion the policy relied on the

complete cooperation from customers and did not detail how uncooperative customers would be dispersed or taken into account the geography of the area; the committee considered this to be relevant and agreed that there was no clear dispersal policy that would deal with the capacity of this premises and that what was being suggested by the applicant relied too much on the cooperation of customers. Also due to the geography of the area the committee's opinion was that dispersal would be a problem, and that there would not be a taxi company within the city who would be able to deal with the numbers of people potentially leaving the premises;

Other Parties told the committee that:

- (5) granting the licence would cause problems with drunkenness and anti-social behaviour (such as vomiting/urinating in the street/criminal damage) and late night noise would cause disturbance in a primarily residential neighbourhood. The entrance to the premises was sited in a poorly lit narrow lane which would provide a fertile environment for a wide range of criminal and anti-social activity; the committee considered this to be relevant and due to the proposed capacity of the premises agreed this would be a potential problem;
- (6) there was a concern that granting the licence would create a threatening atmosphere particularly to female residents and the elderly; the committee considered this to be relevant and whilst they understood these concerns they did not consider this was within the control of the applicant;
- (7) that to grant a licence until 2.30am would have a cumulative impact on Vauxhall Street and Sutton Harbour area as it would inflate the number of customers using the premises in the vicinity and leaving in the early hours; there was already problems in the area from existing premises from drunken behaviour, swearing and shouting. This would impact on noise and anti-social behaviour and policing levels were not adequate to cope with any more volume of criminal behaviour; the committee considered this to be relevant and agreed that the proposed capacity had the potential to add to the existing problems in the area;
- (8) the smoking area was a cause for concern as the flat roof area was separated from Century Quay's garden area by a small gap of about one metre and there was a concern of a real risk of criminal activity from this area because it would allow people to pass from the Cooperage to the flats; the committee considered this to be relevant and whilst they considered what the applicant had said with regard to the fence they had other concerns regarding the use of the roof area, these are dealt with later in this decision;
- (9) there was concern that there would be drug taking on the premises; the committee considered this to be relevant however they were satisfied by the applicant's strict drug policy outlined in the application;

Prevention of Public Nuisance

Environmental Health told the committee that:

- (10) the premises were located within a mixed use area with residential premises within 20 metres of the building. There were four late night licensed premises located within 200m of the premises;
- since the premises last operated there had been a residential block built adjoining the premises. When it last operated complaints of noise were received by Environmental Health from local residents;
 - if granted there was a significant potential for the music noise breakout from the premises, the smoking area, people noise and noise from taxi vehicles as customers arrive and leave the premises;
 - issues of particular concern were:
 - noise breakout and transmission from the premises;
 - queuing patrons outside the premises;
 - use and management of outdoor areas, particularly the smoking area and its supervision;
 - the dispersal of customers from the premises (1000+ people leaving the premises);
 - due to the fact that the premises intended to operate of three levels (Bar, Large Function Suite and Live Band venue) there was the potential for three distinct noise sources to be produced from one venue and the applicants operating schedule did not demonstrate how they would mitigate any potential noise impact on the local community or any noise transmission through the fabric of the premises to neighbouring premises. Environmental Health had recommended to the applicant that a noise survey be carried out;
 - there was a potential for hundreds of people to converge on the narrow Tin Lane area. There were concerns as to how the noise from queues would be managed, with regard to noise and safety on the highway;
 - there were already complaints from this area with regard to existing premises causing a noise nuisance from the public within that area and granting the licence with a possible high capacity would mean that it could have a negative knock on effect on the local area;
 - the smoking areas also presented concerns with regard to noise breakout;

- there was also a potential for noise problems from taxis affecting local residents and the potential was for people being dropped or waiting for taxis to impact on people already queuing for entry to the premises;
- the committee considered the matters raised above to be relevant. They noted that no noise survey had been carried out despite the recommendation by Environmental Health and that no evidence had been provided by the applicant in relation to the sound proofing that would allow the committee to be satisfied that the premises could contain noise. With regard to the smoking area, due to the geography of the area within which the premises is situated and the number of people using it committee considered that this would still cause a problem even with management controls. With regard to the potential problems with noise the committee were satisfied that there would be problems with noise from patrons queuing and dispersing due to the capacity of the premises and the geography of the area;

Other Parties told the committee that:

- (11) concerns were raised about the ability to contain noise (including vibration) and music (including live music) within the premises and the fact that noise would transfer to adjoining and neighbouring premises which would interfere with sleep due to the hours requested. Additionally residents would not be able to enjoy their home or sit on their balconies on a Sunday afternoon if the licence was granted due to noise from the premises. Some residents had suffered significant sound penetration when the premises had operated previously and were concerned this would happen again; the committee considered this to be relevant and accepted that this was a potential problem and that there was no evidence from the applicant that the building would be able to contain noise and prevent noise transfer;
- (12) concerns were raised about litter, glass (both inside and outside the premises), packaging and cigarette ends would be a significant problem; the committee considered this to be relevant but they had not heard anything to suggest that the applicant would not deal with the problems outlined above;
- (13) there would be problems with taxis dropping off and picking up in the early hours of the morning, with car engines and slamming doors causing disturbance and also potentially blocking roads; the committee considered this to be relevant and accepted that this is a potential problem to which there would seem to be no suitable solution due to the geography of the area and the proximity of the premises to residential properties;

- (14) there would be problems with the dispersal of patrons as it will be noisy and disorder issues were likely to arise; the committee considered this to be relevant and agreed that due to the geography of the area, lack of dispersal policy and proposed capacity that this would be likely to lead to these issues;
- (15) the flat roof smoking area raised concerns as noise and smoke may not be retained and this would affect the use and enjoyment of residents' gardens and their properties. Some of the flats have bedrooms overlooking the flat roof area. The use of the front area for smoking could also prevent residents entering their properties; the committee considered this to be relevant and agreed that there was no suitable place for a smoking area;
- (16) there was a concern that an increase in bins and collection of waste disposal would exacerbate a problem which already existed in the vicinity; the committee considered this to be relevant but were satisfied that the applicant would deal with this issue appropriately;

Protection of Children from Harm

Other Parties told the committee that:

- (17) they had concerns about underage drinking and drug abuse; the committee considered this to be relevant but were satisfied that the applicant had a good policy which would address these concerns;
- (18) extended exposure to loud music and the use of smoking areas would affect children's sleep and their ability to concentrate; the committee considered this to be relevant and the committee were not satisfied on the evidence produced that the premises could contain sound or that there were suitable sites for smoking areas;
- (19) as the premises are so close to domestic premises, alcohol fuelled anti-social behaviour and inappropriate language will be readily observable by children of all ages; the committee considered this to be relevant and accept that this is a potential problem but considered this was outside of the applicant's control;

Public Safety

Environmental Health told the committee that:

- (20) there were concerns on whether there were sufficient sanitary conveniences provided at the premises as it had not been possible to assess this due to no capacity being stated in the application. Queues for using these facilities can often be pinch points for disorder; the committee considered this to be relevant and from the evidence heard were satisfied that there were insufficient toilets within the premises; the number of toilets provided would need to be agreed by the

applicant with Environmental Health;

- (21) with regard to the smoking area there were concerns on how any queues forming to gain access to the smoking area would be managed to protect public safety; the committee considered this to be relevant and the committee did not consider that the roof area was suitable for use as a smoking area;
- (22) there were concerns that the roof smoking area had not been tested to ensure that it was structurally sound; the committee considered this to be relevant and were satisfied that there was no evidence that this area was suitable and safe for use by the public;
- (23) there were concerns as to how the queues would be managed to protect public safety as the premises are situated on the corner junction of two roads and queues could push pedestrians onto the highway; the committee considered this to be relevant and accepted this was a potential problem. The committee did not consider that the geography of the area was suitable to accommodate queues to the premises;

Other Parties told the committee that:

- (24) there were issues of fire safety due to the fact that the building is dilapidated and so close to residential premises. There were also concerns that the capacity be such that patrons could be evacuated safely; the committee considered this to be relevant but felt that the applicant had a good fire safety policy and noted that there had been no representations from the fire authority who are responsible for safety on this point;
- (25) there were concerns from residents that public safety would be undermined by threats to the public from drunks, broken glass and littering (including the possibility of patrons taking drinks outside). Cigarette butts could also be a fire hazard in the flat roof smoking area and if dropped down into the garages below; the committee considered this to be relevant and did not consider the flat roof smoking area to be suitable for use as a smoking area. The remainder of the concerns outlined above were not within the applicants control;
- (26) as the capacity of the premises was not known there was a concern about patrons exiting on to Vauxhall Street and Sutton Wharf which are both major traffic routes; the concern was that without careful shepherding there would be traffic incidents when allied with alcohol consumption; the committee considered this to be relevant and agreed that due to the capacity of the premises this was a potential problem. The committee did not consider that these concerns could be satisfactorily dealt with by the applicant due to the geography of the area;

- (27) as there are no dedicated parking facilities or taxi ranking facilities this would result in double parking/fly parking on busy through roads; the committee considered this to be relevant and could see the potential public safety risk due to the capacity of the premises and dispersal issues. The committee agreed that there was no suitable solution regarding potential problems from taxis;
 - (28) there was a concern for patrons who may be affected by heat inside the premises if the windows and doors were kept closed for sound protection; the committee considered this to be relevant and accepted the applicant's assurance that there would be air conditioning within the premises;
 - (29) due to the location of the premises near to the water there was a concern that drunken patrons would jump or fall into the water and be injured or killed; the committee considered this to be relevant and had heard evidence that this area was not fenced off however this was a factor that was beyond the applicant's control;
- (d) The committee considered the representations made by the applicant and the relevant representations made as detailed above. In reaching their decision the committee had considered whether any conditions could be attached to any licence granted to address the concerns raised however they were of the opinion that there were no conditions they could attach that would ensure the promotion of the licensing objectives.

They had also considered whether any licensable activities could be removed or amended or hours of operation adjusted to allow the grant of the licence and to ensure that the licensing objectives were promoted. However the committee did not consider that any such adjustments could be made.

Therefore in light of the above the committee agreed it was appropriate and proportionate to refuse the application for the grant of the premises licence as if the licence was granted it was considered that it would undermine the licensing objectives as detailed under each of the licensing objectives set out above.

23. **EXEMPT BUSINESS**

There were no items of exempt business.