

Licensing Sub Committee

Tuesday 15 July 2014

PRESENT:

Councillor Mrs Bowyer, in the Chair.
Councillor John Smith, Vice Chair.
Councillors Ball (fourth member) and Parker.

Apologies for absence: Councillors Mrs Nicholson and Rennie.

Also in attendance: Catherine Fox (Legal Officer), Katey Johns (Democratic Support Officer), Fred Prout (Senior Licensing Officer) and Lynn Young (Democratic Support Officer).

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

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

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

Agreed that Councillor Mrs Bowyer is appointed Chair and Councillor John Smith is appointed Vice chair for this particular meeting.

2. **DECLARATIONS OF INTEREST**

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

3. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

4. **EMBANKMENT KEBAB AND PIZZA, 76 EMBANKMENT ROAD, PLYMOUTH - GRANT OF PREMISES LICENCE**

The Committee having –

- (i) considered the report from the Director for Public Health;
- (ii) considered both the written and oral representations from the Other Parties;
- (iii) heard from the applicant that:
 - it seeks a late night refreshment licence in respect of the above premises from 11pm to 12 midnight;

- in response to the concern that a public nuisance will be caused by a build-up of litter – that there is a bin inside the shop for customers to use; there are bins along Embankment Road; it is not an area where people stand in the street to eat as it is a residential area; the majority of customers order food for take away or delivery; since opening there have been no complaints from the Council or members of the public about litter problems; it is not the only takeaway along the road so if there was any build-up of rubbish it could come from these premises. Any litter left in the launderette must be minimal as there is only an hours overlap when both are open between 4pm and 5pm each day;
- in response to the concern that a public nuisance will be caused by an increase in noise and disturbance from members of the public, it is reported that since opening there have been no complaints about noise issues by customers. There has been one complaint as part of this application for a licence that on 23 May drunk people were ringing on a door buzzer and banging on the door of a flat upstairs and running away. This was not witnessed from inside the premises and if it was someone exiting the shop they would have noticed. As they ran away the complainant cannot know it was one of the shop's customers;
- in response to the complaint that smells seep into the upstairs flat and that there is a fire risk as the flue ventilation system does not comply with DEFRA standards, the Applicant states that it was professionally fitted. As a result of the neighbours' complaints it has been inspected by environmental health and planning and fire safety departments. Any issues have been resolved or are in the process of being resolved. There is an ongoing fire safety issue between the ceiling of the shop and the floor upstairs. The fire service and environmental health department are involved. It is the freeholder's responsibility to resolve and it is being sorted;
- the firm that fitted the flue fitted one that was different to that specified in the planning application. They have to lodge a fresh planning application in relation to the flue by 29 July 2014;
- since learning of these issues the Applicant has bought and installed a CCTV system which will face down the street and monitor any noise or disturbances from customers and any build-up of litter;
- the applicant is aware of neighbours and does not wish to cause them any problems and have addressed any issue that has been raised since opening. For example they installed silent fans inside the shop and extra filters to limit noise. They are prepared to do anything that assists and comply with anything that is required;
- the Applicant alleges the resident of the flat upstairs is hostile to the

existence of the shop and has acted inappropriately as a result;

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

a) **Prevention of Public Nuisance –**

The granting of the licence will prolong the noise levels from patrons, delivery drivers and staff of the premises and the emissions from the flue. This was considered to be relevant. The Committee felt there was some potential for additional noise but that the existence of the CCTV and the attaching of conditions would mitigate any additional noise from people and vehicles during the one additional hour of trading. The noise from the flue is addressed below under “other representations”;

the granting of the licence will increase loitering and disturbance. This was not considered to be relevant. Whilst the committee members recognise that any noise from people will continue there has been no evidence produced that it amounts to a public nuisance. The CCTV camera installed directed out into the street will go some way to mitigate any issues that may arise during the one hour of licensable activity;

the granting of the licence would lead to an increase in litter problem. It is said that there are inadequate rubbish bins outside the front of the premises leading to an increase in food waste and litter on the pavement. This was not considered to be relevant. The Committee finds that, whilst there is the potential for an increase in litter, there are bins inside the premises and along Embankment Road. Again the Committee felt the presence of the CCTV cameras would assist to alleviate/mitigate any issue that may arise during the one hour of licensable activity;

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

On one occasion it is alleged that unknown persons were banging on front door and running away of flat upstairs. In addition it is alleged that the buzzer has been pressed late in the evening by drunk patron of premises. This was not considered to be relevant. There was no evidence presented to the committee to establish a clear link that these incidents were caused by patrons of the premises. It is accepted that no reports to the police have been made and the police as a Responsible Authority have presented no information nor raised any objections;

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

A resident of a neighbouring flat is concerned that there is a nasty smell which gets into their spare room which is to be used as a nursery. This was not considered to be relevant to this committee

because these issues are being appropriately addressed by Responsible Authorities under more appropriate legislation;

d) **Public Safety –**

No representations made to Committee;

e) **Other representations –**

In the view of the Other Parties, the flue from the premises does not meet DEFRA standards as there is no maintenance vents for access and is within 1 meter of a window. As a consequence there is a high risk of fire. This was not considered to be relevant in these terms as the concerns did not fall within one of the four licensing objectives;

both the Applicant and Other Parties agree that there is a fire safety issue between the ceiling of the shop/floor of the flat above and that this is being addressed through the intervention of the Fire Service and discussions with landlords. This was not considered to be a relevant representation as the concerns did not fall within one of the four licensing objectives;

a copy of the application and notice of today's hearing were served on the other Responsible Authorities. No objections to the application have been raised and whilst the Environmental Health Department and Devon and Somerset Fire Service confirmed that they were involved in resolving the issues over the flue and fire safety issue from the ceiling of the shop/floor of the flat above, these issues were not relevant to one of the four licensing objectives and therefore not a relevant consideration for the Committee;

Agreed that having taken into account all of the above representations it is considered appropriate that the application be granted as follows:

- (1) subject to conditions consistent with the applicants operating schedule and
- (2) subject to the following conditions imposed by the Committee -
 - (i) the Premises Licence Holder will ensure suitable signage will be positioned at the exit to request the co-operation of patrons to make as little noise as possible, to not stand around talking in the street outside the premises and to disperse quickly and quietly;
 - (ii) the Premises Licence Holder will ensure suitable signage will be positioned at the exit to request patrons to use the bin provided inside the premises and the public bins outside for disposing of any rubbish;

- (iii) the Premises Licence Holder shall ensure that sufficient measures are in place for the removal of waste or litter arising from their customers and to prevent litter accumulating in the immediate vicinity of their premises i.e. immediately outside the front and rear of the premises; and at the end of trading each day to ensure it is collected and cleaned up;
- (iv) the Premises Licence Holder shall ensure that all its delivery drivers are aware that they should arrive and depart as quickly and quietly as possible, that they should not leave engines idling unnecessarily nor speak on mobile phones or amongst themselves. In addition the staff are to be required to leave as quietly as possible.

5. **EXEMPT BUSINESS**

There were no items of exempt business.