

Licensing Sub Committee

Tuesday 15 December 2015

PRESENT:

Councillor Rennie, in the Chair.
Councillor Sam Davey, Vice Chair.
Councillors Fletcher and Mrs Bowyer (Fourth Member).

Also in attendance: Catherine Fox (Legal Officer), Fred Prout (Senior Licensing Officer) 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.

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

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

17. **DECLARATIONS OF INTEREST**

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

18. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

19. **APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR - JAMES WILLIAM JOHN WRIGHT**

Application to Vary a premises Licence to Specify an Individual as Designated Premises Supervisor Under S37 Licensing Act 2003 – by James William John Wright in respect of The Plymstock Inn, 88 Church Road, Plymstock

The Committee having –

1. considered the report from the Director of Public Health;
2. granted a 30 minute adjournment of the hearing upon the Applicant's non-attendance,
3. heard that an attempt had been made to speak to the Applicant on the telephone this morning but the phone was not answered

4. received confirmation from the Licensing Officer that:-
 - a. the Applicant had been served with notice of the date and time of today's hearing and had responded by e mail dated 6 December 2015 confirming he considered a hearing to be necessary and would be representing himself at today's hearing
 - b. the Applicant, on making his application in respect of the Plymstock Inn pursuant to S37 of Licensing Act 2003 to vary the current premises licence to specify an individual as Designated Premises Supervisor, namely himself, included a request that the variation applied for should have immediate effect
 - c. the Hearing had already been adjourned from 17 November 2015 until today at the request of the Applicant as he would be on a Cruise for 2 weeks at the time
5. considered the terms of S38(3) Licensing Act 2003 and Regulation 20 Licensing Act 2003(hearings) Regulations 2005
6. Heard the following oral representations from the police as to whether the hearing should be adjourned or proceed in the absence of the Applicant

ORAL REPRESENTATIONS - police

The police submitted that the hearing should proceed today. The hearing had been adjourned once already as the Applicant was on holiday; he had been given sufficient notice. The police representations which had led to the need for today's hearing, relate to whether or not the Applicant can fully engage with the responsible authorities. With that in mind and the busy Christmas period and the fact that the Plymstock Inn is a busy community pub which he is asking to take control of, we feel it would be a retrograde step and risky if the matter is not resolved today. We believe it is in everyone's interest, to decide one way or the other and asked that the hearing proceed so that there is a resolution

7. The committee held that the hearing should proceed today. It gave the following reasons:-
 - It concluded there were strong reasons to proceed with the hearing today.
 - The applicant had already been granted an adjournment at his request whilst he was on holiday;
 - he had received good notice of today's hearing and indicated a hearing would be necessary and he would be attending and representing himself;
 - that despite being telephoned this morning he had not answered;
 - he had made no contact with the Licensing Office or Democratic Support to say he was unable to attend or the hearing would not be needed;
 - given the nature of the concerns expressed by the police within their written representations and the circumstances leading to the same and the busy Christmas period and the fact that the variation has been in effect since the application was lodged it was in the public interest to for the application to be heard today
 - The Applicant was able to attend today to put his case forward but for whatever reason has not done so nor made contact to explain why

- He will have the opportunity to appeal the decision if he so wishes, or to make a further application
8. The Committee was unable to hear from the Applicant. It considered the contents of the email the Applicant had sent to the Licensing Officer dated 6 December 2015 and put to the police the point he made within that e mail that he wished to challenge the representations of the police “due to the effect it would have on his job and livelihood and also that of others who work for him within the premises”. The members believed he would have raised this point himself, had he attended.
 9. The committee then heard and considered the following written representations from the police under the following licensing objective

Prevention of crime and disorder

The police have submitted the following written representations, expanded upon within oral representations today, objecting to Mr Wright’s application to appoint a new Designated Premises Supervisor, namely himself. They state that they are satisfied that there are exceptional circumstances of the case and that granting the application would undermine the crime prevention objective.

They assert the following amounts to exceptional circumstances

1. The Applicant has been convicted of a relevant offence as set out in Schedule 4 to the Licensing Act 2003, namely driving a motor vehicle on a road with excess alcohol on 27 September 2014. This was considered to be relevant under this licensing objective.
2. On 10 October 2015 Mr Wright submitted an application to vary the premises licence of the Plymstock Inn naming himself as DPS immediately following being charged with a relevant offence. The timing of this was considered to be relevant under this licensing objective
3. He appeared at Plymouth Magistrates Court on 14 October 2015 where he pleaded guilty and was sentenced to an 18 month driving disqualification and fine £300. He lodged an appeal against sentence and the fine was reduced. This was considered to be relevant under this licensing objective
4. During his arrest and detention at Charles Cross Police Station in order to complete the breathalyser procedure officers noted the Applicant had adopted an uncooperative and abusive manner towards them which necessitated him being placed directly in a detention cell without the normal booking procedure This was considered to be relevant under this licensing objective
5. The police contend that the particulars of the offence which is alcohol related and a listed relevant offence, combined with the attitude of non-co-operation adopted by the Applicant whilst under the influence of alcohol, indicates at this moment in time it would be difficult to engage with him to effect an appropriate level of engagement with the four licensing objectives and specifically with the prevention of crime and disorder. This was considered to be relevant under this licensing objective

6. The police have also submitted the S9 statement of the arresting officer dated 21.10.15 which describes the arrest referred to in point 4 above. The arresting officer describes being called to the scene of the traffic stop by an MPC who was on abnormal load escort duties on 27 September 2015. The MPC had attempted to stop a black Audi TT at the junction of Larkham Lane with Plymouth Road. Initially the black Audi had continued towards the MPC and not stopped as other drivers had. The MPC had spoken to the driver and noticed his eyes appeared glazed and dilated and worse were slurred. He suspected the driver was driving under the influence of alcohol. This was considered to be relevant under this licensing objective
7. The arresting officer arrived at the scene at approximately 0415 on Sunday 27 September 2015. The driver was stood beside his vehicle and identified himself as James Wright. The arresting officer noticed the smell of alcohol on his breath. The Applicant was taken to the evidential intox machine and provided 2 specimens of breath with the lowest being 69ugs/100ml over the limit of 35. On being informed of the reading the Applicant tensed his arms and spoke aggressively saying "you are not putting me in a cell". This was considered to be relevant under this licensing objective
8. This behaviour continued in front of the Custody Sergeant. The Applicant continued repeating aggressively that he would not go into a cell. After some discussion he was led into a cell upon which he took his shirt off and picked up the mattress and placed it against the wall and then started to punch it repeatedly. This was considered to be relevant under this licensing objective

In response to questions by members it was reported that:-

9. The police reported serious concerns as to the Applicant's suitability. They have evidence of disgraceful behaviour to authority and believe that this will affect the Applicant's ability to engage with authority. His specimens of breath read 71ugs/100ml and 69. He was twice over the drink drive limit at 4 am in the morning. They do not believe his behaviours with regard to drinking and towards those in authority once arrested are suitable or demonstrate the levels of responsibility and maturity required by a Designated Premises Supervisor of a busy premises. They considered such specimen of breath reading would render the Applicant incapable of running the premises appropriately and that his affinity to alcohol needs to be looked at further before being in a position to retail alcohol. This was considered to be relevant under this licensing objective
10. The Applicant's attitude and response on arrest gives rise to concerns that he does not engage properly or react appropriately and that there is risk that he would respond to responsible authorities in an aggressive manner. These are indications that he is prone to violence when he does not get his own way. This was considered to be relevant under this licensing objective
11. In response to a question from the members, the police indicated that whilst the Applicant had not committed any further offences since he lodged his application, the police had received intelligence which they were investigating. This was new

information to which the Applicant had not had the opportunity to respond, the members agreed it would not form part of their decision today

12. The police confirmed that they do not enter lightly into these applications. They are well aware that they affect people's employment. The police had tried to engage with him but found the Applicant has a different view from them as to his responsibilities as a Designated Premises Supervisor. To date he has not engaged as fully and professionally as required. As a Designated premises Supervisor he has an important role and high levels of responsibility. He has not engaged with a responsible authority, nor displayed an ability to do this; he seems to think its part of game. The Applicant's Father is the owner and DPS of Three Crowns, Plymouth and has a business interest in the Plymstock inn. The police representative's personal opinion was that he did not think he would be out of a job and that the Plymstock Inn will remain a viable concern. This was not considered to be relevant under this licensing objective.
13. The police were of the view that the Applicant's lack of attendance and engagement with the Licensing process was another example of his lack of respect, his immaturity, and lack of responsibility. This was considered to be relevant under this licensing objective.

The Members have considered the application and the objections made by the Police.

The Members have also considered the Home Office guidance and Plymouth City Council's licensing policy

They found that the objections from the police were relevant under the prevention of crime and disorder objective.

The Committee was concerned that to grant the application and the continuation of the interim DPS licence would undermine the licensing objective of the prevention of Crime and Disorder for the following reasons:-

- It is the responsibility of a Designated Premises Supervisor to run licensed premises in a responsible manner and work within prevention of crime and disorder objective. What the committee has heard today is that in the short time had since the Applicant has had his interim DPS license he has acquired a relevant conviction pursuant to Sched. 4 Licensing Act 2003, namely a drink drive conviction; such aggression to police at station that an experienced Custody Sergeant felt the need to put him in cell where he proceeded to act violently by punching a mattress against the wall and arising from this are serious concerns as to his ability to work with authority and to react appropriately if there were to be an aggressive incident in the pub.
- This hearing was rescheduled for his convenience. He has shown a total lack of respect for committee, and the responsible authorities generally. His actions have not demonstrated that he understands the level of responsibility a Designated Premises Supervisor needs to operate at.
- His actions have completely contravened the prevention of crime and disorder objective

The Committee is of the view that the action detailed below is considered appropriate and proportionate to promote the licensing objective of crime and disorder in light of the relevant representations and all that was put forward by the applicant

- I. Taking account of these representations the application is refused as to grant the licence would undermine the following licensing objectives: crime and prevention

20. **EXEMPT BUSINESS**

There were no items of exempt business.