

Licensing Sub Committee

Tuesday 12 April 2016

PRESENT:

Councillor Rennie, in the Chair.
Councillor K Foster, Vice Chair.
Councillors Kelly and Parker-Delaz-Ajete.

Also in attendance: Kristin Barnes (Democratic Support Officer) Fred Prout (Senior Licensing Officer) Catherine Fox (Legal Officer)

The meeting started at 10.00 am and finished at 11.00 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.

27. **Appointment of Chair and Vice Chair**

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

28. **Declarations of Interest**

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

29. **Chair's Urgent Business**

There was no Chair's urgent business.

30. **Variation of Premises Licence - Food & Wines, 156 Union Street, Plymouth**

The Committee-

- a) Heard that the applicant was not present but had advised the Licensing Officer who telephoned him that morning that he had closed the shop the previous day and did not wish to proceed with the application. as nothing in writing had been received to this effect from the Applicant following service of Notice of Hearing and the written representations, under Regulation 20 Licensing Act 2003 (Hearings) Regulations 2005, the Members made the decision to proceed with the hearing in his absence;
- b) Considered the report from the Director of Public Health
- c) Heard from the applicant as follows:
 - the Committee considered the terms of his application in which the Applicant seeks to vary the existing Premises License (granted on 1 December 2015) by requesting the removal of Conditions 7 and 8 contained in Annex 2 –

Conditions consistent with the Operating Schedule. Under Conditions agreed with the Police Licensing Authority that is

7 No single cans or bottles of beer or cider will be sold

8 No sale of high strength beers or ciders above 6.5 ABV;

- within his application he states the application is for the sale of continental and locally sourced single cans and bottled beers and ciders, high strength beers up to a maximum of 9% ABV;
- in support of his application he said as follows; the conditions 7 and 8 agreed with the police on his initial application are affecting their business;

d) Heard written and oral representations from Responsible Authorities;

Devon and Cornwall Police made the following written and oral representations opposing the granting of the application relating to the prevention of crime and disorder, the prevention of public nuisance, Public Safety and the protection of children from harm;

- I. The premises are situated within an area that is subject to Plymouth City Council's Cumulative Impact Policy and rely on the evidence produced by the police that supported the introduction of this policy (This was considered to be relevant under this licensing objective. The variation sought will add to the existing problems in the area);

Evidence gathered by the Police licensing officers and the Police Neighbourhood Beat Manager demonstrates that the operation of these premises is impacting on the running of businesses, residential homes, all members of the community within the area due to the crime and disorder, and public nuisance and risk to public safety that arises from the sale of alcohol in breach of conditions 7 and 8;

The following incidents were considered to be relevant under the licensing objectives of crime and disorder, public safety, public nuisance and protection of children from harm. These are evidence that, if granted, the variation sought will add to the existing problems in the area;

Despite, when making his application for a premises licence in October 2015, having agreed conditions 7 (to restrict the sale of single cans of beer and cider) and condition 8 (the restriction of sale of high strength drinks i.e. not to exceed 6.5% abv), which conditions were constructed with the specific aim of dealing with issues relating to street drinking there is evidence that on at least 4 occasions he has failed to comply with the same on 4 occasions– namely

- 02.02.2016 – the Police Licensing Officer made a visit to the premises where he found an employee present. On inspection he found there was a large amount of high strength beers and ciders displayed for sale that exceeded 6.5% abv namely Barnstormer, Oranjeboom, Karipokie, Skool, Black Ace, Frostie Jack, Thatcher. The most alcoholic beer for sale was Debowe which

is 14%. When the DPS attended the premises he stated that the items were old stock and it had been agreed that this could be sold provided it was not replaced with similar items. The Licensing Officer challenged the Applicant as there were new brands on the shelf that were not evident on his previous visit. The DPS stated he would remove all stock immediately.

A warning letter dated 03.02 16 was sent to the DPS following this incident;

- 03.03.16 – the Neighbourhood Beat Manager for the Stonehouse area attended the premises and took photographs of several displays containing beer and cider. It was noted that all cans were advertised for sale as individual cans as well as sets of 4. The Beat Manager reported that the person serving was not aware of the conditions of license. It was noted that there were no high alcohol items displayed for sale at this time;
- 07.03.16 – the Neighbourhood Beat Manager dealt with 2 street drinkers under the DPPO (Designated Public Places Order) for the area, who stated that they had bought single cans of lager they were found drinking from 156 Union Street;
- 07.04.2016 – the Neighbourhood Beat Manager issued the applicant with a fixed penalty notice pursuant to S141 Licensing Act 2003 for the sale of alcohol to a drunk. The Neighbourhood Beat Manager's statement dated 07.04.16 sets out that a single one litre bottle of White Ace Cider was sold. White Ace cider is 7.5% ABV. This sale contravened both condition 7 and 8.

2. The police licensing team met with local businesses within the area on 17 March 2016. All spoken to felt intimidated by these groups. Vehicles connected to the businesses have been obstructed by groups of drunks refusing to move from the lanes to allow the vehicles to pass, whilst being aggressive and threatening. They have witnessed incidents of people when drunk defecating and urinating in public view in the back lanes. The licensing officers were unable to locate anyone within the vicinity of the premises that were not negatively affected by the street drinkers and their behaviours. The back lanes where the street drinkers congregate are used by businesses for access, deliveries and parking and for residents walking their children to school (These incidents were considered to be relevant under the licensing objectives of crime and disorder, public safety, public nuisance and protection of children from harm. The variation sought will add to the existing problems in the area);

3. The Neighbourhood Beat Manager has detailed the problems he encounters and the effect the sale of single cans of alcohol to alcoholics and street drinkers has on the local community and in his statements dated 22 March 2016 and 7 April 2016 has evidenced that these premises are compounding the problem by selling single bottles and cans and high strength alcohol. Examples of the behaviours are;

- The Neighbourhood Beat Manager in his statement confirms that the groups of street drinkers have identified areas where they

congregate, usually in back lanes where they settle down for a day's drinking. The real problem is the more they consume the more problematic they become. At this point they can become aggressive, abusive and lose their social inhibitions relating to their bodily functions and responses to others;

- The Neighbourhood Beat Manager has identified that there has been a call as early as 8am reporting concerns about street drinkers in Adelaide Park;
- Empty beer cans and broken bottles are abandoned where the street drinkers congregate.

The incidents reported were considered to be relevant under the licensing objectives of crime and disorder, public safety, public nuisance and protection of children from harm. The variation sought will add to the existing problems in the area

4. A statement has been supplied from a PCSO detailing the reasons for the existing Designated Public Places Order which has been in place since 2006 and in respect of Stonehouse since 2009 and the continued need for the same or the implementation of a Public Spaces Protection Order as an aide in the reduction of alcohol related crime, violence and antisocial behaviour in an area which includes the vicinity of these premises. He identifies the area of Union Street as one of homelessness and social deprivation which in turn contributes to large numbers of persons congregating on a regular basis, particularly during the warmer spring and summer months, in public spaces for the purpose of consuming alcohol often to excess. These persons are not social drinkers, many are alcoholics who are homeless or reside in sheltered accommodation. Their behaviour whilst intoxicated has included multiple offences including but not restricted to violence, theft, robbery, sexual assault, indecent exposure, begging, public order offences and antisocial behaviour. (This was considered to be relevant under the 4 licensing objectives. It confirms that the problems that led to the imposition of the Cumulative Impact Policy in relation to this area are continuing to be existing problems in the area);
5. This statement of the PCSO, is supported by the production of lists of incidents in the area of these premises namely a list of calls to the police regarding drunken incidents between the hours of 06.30 and 2100 from 1 January 2016 to 15 March 2006; a list of alcohol related violence and drug offences between 1 January 2016 and 16 March 2016 ; a comprehensive list of all offences committed in the area between 01 January 2016 and 15 March 2016 (This was considered to be relevant under the licensing objectives of crime and disorder, public safety, public nuisance and protection of children from harm. Whilst not all incidents reported can be linked to these premises there is evidence that the street drinkers in the vicinity of these premises are purchasing alcohol from the premises and then displaying the reported behaviours.)

6. The police licensing officers have spoken to the maintenance workers for the area who advised that there are regular rough sleepers using the bin sheds and bottles, tins, needles and excrement are left behind (This was considered to be relevant under this licensing objective. Whilst not all incidents reported can be linked to these premises there is evidence that the street drinkers in the vicinity of these premises are purchasing alcohol from the premises and then displaying the reported behaviours);
7. Within the area of the premises are 5 school and 10 alcohol addiction rehabilitation/recovery centres. A map detailing the location of each has been presented to committee;
8. The premises are in close proximity to numerous residential properties This was considered to be relevant under this licensing objective of prevention of crime and disorder, public nuisance and public safety and protection of children from harm. Making stronger strength alcohol more readily available will lead to an increase in the behaviours and incidents reported within the location of residential homes, and the community which includes children on their way to and from these schools;

The committee received and considered the following written and oral representations from the Health Authority: Prevention of Public Nuisance, Crime and Disorder; impact on public safety and protection of children from harm:

1. Between April 2015 and February 2016 the number of alcohol related crimes and public order offences in the Stonehouse neighbourhood was the highest in any neighbourhood in the city and the number of notified domestic abuse offences with alcohol classification were also higher than any other city neighbourhood. (This was considered to be relevant under these licensing objectives but Health were not able to draw a specific link between the above and these particular premises);
2. The proposed variation to this premises licence will increase the overall availability of alcohol in this area and is likely to increase overall alcohol consumption, street drinking and associated crime, disorder, antisocial behaviour and public nuisance. It is likely to have a negative impact on public safety and perceptions of safety
(This was considered to be relevant under this licensing objective but Health were not able to draw a specific link between the above and these particular premises);
3. The variations will also work against the objectives of the Strategic Alcohol Plan and the objectives of the Designated Public Places Order in place in the area (This was not considered to be relevant under all 4 licensing objectives.)

The Committee considered written representations received from other parties under all the licensing objectives below;

1. The premises are near to alcoholic addiction recovery activities or buildings and is in an area where street drinking affects any of the licensing objectives (This was considered to be relevant under this licensing objective);
2. The proposed variation will increase the availability of alcohol in this area and is likely to increase street drinking and associated crime, disorder, anti-social behaviour and public nuisance. It is also likely to have a negative impact on public safety and perceptions of safety (This was considered to be relevant under this licensing objective although this rehabilitation centre has produced no evidence of a specific link to these premises);
3. Super strength alcohol products are low cost high strength lagers and ciders above 6.5% ABV. One single 500ml can of super strength lager contains 4.5 units of alcohol – exceeding the government’s daily recommended safe alcohol limit for men and women. There is evidence that some of these products are sold as single cans for less than £1 and in containers that cannot be resealed encouraging them to be drunk in a single sitting. Low cost super strength alcohol is most often drunk by the most vulnerable people in society such as homeless and young people and people with complex needs. These products can cause serious harm to health and contribute to crime and antisocial behaviour and violence (This was considered to be relevant under this licensing objective. Although this rehabilitation centre has produced no evidence of a specific link to these premises)

The committee has taken into account all relevant representations. It has considered the Home Office Guidance to the Licensing Act 2003 and Plymouth City Council’s Licensing Policy.

The premises remain within an area where there is a Cumulative Impact Policy in force.

The onus remains on the Applicant to demonstrate that the proposed variation will not negatively impact on the Cumulative Impact Area.

The Applicant has failed to demonstrate within his application that by his proposed operating schedule that there will be no negative impact on one or more of the Licensing objectives. He has not taken up the opportunity to provide either written or oral representations in response to written representations made by the Responsible Authorities and Other Parties in order to demonstrate that there will be no negative cumulative impact on one or more of Licensing objectives

Representations been received that grant will add to CIP of area in relation to all 4 Licensing Objectives

The grant of the application would undermine the promotion of all 4 of the licensing objectives.

- e) The committee considered whether conditions could be attached or licensable activities amended or hours of operation amended to address the concerns raised in the representations however this was not considered appropriate because;
1. There is police evidence that the premises are already selling single cans/bottles and high strength alcohol at greater than 6.5ABV in breach of conditions 7 & 8 of the existing operating schedule;
 2. There is police evidence that the large group of street drinkers that congregate within the vicinity of these premises causing a nuisance and risk to the business and domestic community are selecting the single cans and high strength alcohol which increases their antisocial behaviour;
 3. Has already had a negative impact on the licensing objectives of public safety, prevention of crime and disorder, public nuisance and the protection of children from harm;
 4. The Applicant has not demonstrated his understanding of the issues negatively impacting on the area that led to the Cumulative Impact Policy nor the Designated Public Places Order being implemented. He has not demonstrated an ability to implement the existing conditions nor an understanding of their importance;

The action detailed below is considered appropriate and proportionate to promote the licensing objectives in light of the relevant representations and all that was said by the applicant.

Agreed that the application is refused as to vary the licence would undermine all 4 licensing objectives:

31. **Exempt Business**

There were no items of exempt business.