

# Licensing Sub Committee

Tuesday 19 May 2015

## PRESENT:

Councillor Rennie, in the Chair.

Councillor Mrs Nicholson, Vice Chair.

Councillors Hendy (fourth member) and Parker-Delaz-Ajete.

Also in attendance: Catherine Fox (Lawyer), Fred Prout (Senior Licensing Officer) and Helen Rickman (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.*

## 39. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

## 40. DECLARATIONS OF INTEREST

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

## 41. CHAIR'S URGENT BUSINESS

There were no items of Chair's Urgent Business.

## 42. COMMERCIAL SERVICE STATION, 9 CHAPEL STREET, DEVONPORT, PLYMOUTH, PL1 4DP

The Committee having:

(1) heard from the applicant that:

- it seeks to vary the hours when the licensable activities for the retail sale of alcohol off the premises may take place Monday to Sunday from 8am to 12 midnight each day to 24 hours per day;
- it was proposed that the existing conditions on the premises licence are to remain unchanged in August 2014, following discussions with the police they had withdrawn their application for a 24 hour off sales alcohol licence and sought an extension until midnight which was agreed. This was during the consultation period for the application for the Designated Public Places Order (DPPO) which has now been granted

- they have checked with the store and understand there have been no complaints with the later sale of alcohol from this premises. The store manager has indicated that there have been no known problems with street drinkers or the homeless. They have spoken to the Spar shop that operated opposite the hostel. The Spar shop knows who the residents are for the most part and do not serve them and the issue is managed well.
- the police have no reported incidents of alcohol related crime linked to the premises
- they have excellent operating conditions already established as they are the same that were put forward to support their earlier application for a 24 hour off sales alcohol licence that was before the Committee in August 2014
- they have considered the data supplied by the police as part of their objections. The data covers a large area and not just the immediate area and deals with historic issues pre the granting of the DPPO.
- if you examine the data they had calculated that the number of reported night time crime incidents related to alcohol were at an average of 2 per month in 2013, 5 in 2014 and 2.5 in the first 4 months of 2015. These reflect the store managers experience that it is very quiet at night. This is not to belittle the issues that have arisen during the daytime that have led to the granting of the DPPO.
- alcohol sales in the evening are fairly quiet. Between 10pm and midnight on Monday to Thursday their sales of alcohol are in the region of £20 and on Friday to Saturday night £100-150.
- it appears the DPPO has been successful. Rontec supports the DPPO and its aims wholeheartedly and appreciates the concerns of the councillors and those who worked hard for the DPPO. However they believe it highly unlikely that they will impact on the area's problems. Their experience of other establishments with 24 hour licenses has shown there is a fear of problems arising that do not then materialise.
- they understand the concern that if their application were to be granted it would set a precedent and lead to other applications. However, the Spar shop has a licence until 10pm but has not been prompted to seek an extension since their licence until midnight was granted last August. In any event each case must be judged on its own merits
- they have noted that there have been no objections from the local residents to this current application. There had been 80 at the time of the DPPO consultation. There has been no objection from Mount Wise Home which objected to the earlier application

- whilst they cannot say there will not be any issues arising, in the same way the police cannot say that a 24 hour licence will cause issues.
- if the committee are minded to grant the application they will commit to making contact with the police on a quarterly basis. If any issues have been arisen from the 24 hour licence they will stop selling it. They recognise that this is not an enforceable condition but it will be recorded on the minutes and if there are issues or they do not make contact with the police then the police can call a review.
- each case should be granted on its own merits. The committee were referred to S182 of the Licensing Act and relevant guidance.

(2) written representations from Responsible Authorities:

written representations have been received from Devon and Cornwall Police and the Committee has heard oral representations today under the following Licensing Objectives:

**Prevention of crime and disorder and public safety**

- the area has historically experienced high incidences of drug and alcohol abuse including street drinking with the associated violent and disorder offences these bring. The crimes associated include fighting, aggressive begging, harassment, urinating in public place. *This was considered to be relevant under this licensing objective. However the committee considered this to be just that, historical, and there is no evidence since the granting of the DPPO in September 2014 and the last variation of this licence in August 2014, that there have been any alcohol related incidents linked to these premises or its vicinity;*
- whilst the above led to the police making an application for a Designated Public Places Order ( DPPO) which was granted on 15 September 2014, and a noted decrease in the level of crime reported, alcohol related crime does continue. Figures to support this for reported crime for the years 2013 and 2014 and 1 January 15 – 30 April 15 have been produced for the beat area within which the Application premises fall. The police assert that an increase in the licensing hours for off sales will negate the progress made and undermine the aim and purpose and achievements of the DPPO. *This was considered to be relevant under this licensing objective. However the committee considered this to be just that, historical, and there is no evidence since the granting of the DPPO in September 2014 and the last variation of this licence in August 2014, that there have been any alcohol related incidents linked to these premises or its vicinity. The police recognised the quality of the management and training of the Applicant. The committee felt that with the existing conditions and the additional 2 agreed today would deal with any issues that may arise;*

- the police have produced copies of the Findings of the Public Consultation Process undertaken by Public Protection Service, themselves and the Devonport Neighbourhood Team as part of the DPPO application process. These set out in detail and provide specific examples of incidents experienced pre DPPO being granted, by the residents of the area within which the Applicant's premises are located. *This was considered to be relevant under this licensing objective. However the committee considered this to be just that, historical, and there is no evidence since the granting of the DPPO in September 2014 and the last variation of this licence in August 2014, that there have been any alcohol related incidents linked to these premises or its vicinity. There have been no objections received from the local residents to this application;*
- the premises are situated within approximately 50 metres of a hostel for persons with drug and alcohol dependency issues and the increase in hours could undermine the work being done for example accessing alcohol in the early hours and then attending for morning rehabilitation work under the influence. *This was considered to be relevant under this licensing objective. The committee considered the terms of its own Policy document dated March 2014 and in particular page 15. Whilst the hostel in question had provided its objections/views to the DPPO consultation process it had raised no objections to this application. Again the committee considered the lack of any specific incidents linked to these premises and that the conditions already operating with the additional 2 to be added, would significantly reduce the likelihood of any problems;*

### **Prevention of Public Nuisance and Protection of Children from Harm**

- the police have produced copies of the Findings of the Public Consultation Process undertaken by Public Protection Service, themselves and the Devonport Neighbourhood Team as part of the DPPO application process. These set out in detail and provide specific examples of incidents experienced pre DPPO being granted, by the residents of the area within which the Applicant's premises are located. These include litter, broken bottles, drunkenness, foul language, children being exposed to the drinking culture. *This was considered to be relevant under this licensing objective. Again the committee considered the lack of any specific incidents linked to these premises and that the conditions already operating with the additional 2 to be added, would significantly reduce the likelihood of any problems;*
- the premises are on the main route home from the City Centre and may attract already intoxicated people on their way home from clubs and bars in town late at night or early hours of the morning. *This was considered to be relevant under this licensing objective however from the information it had been given the committee did not consider it would be a problem and again the existing operating conditions with the additional 2 would mitigate against any problems arising. The committee noted that the police themselves confirmed that these are well run and managed premises*

*with a good record of staff training. In addition the powers conferred by the DPPO has given the police additional powers to deal with problem groups;*

- *the premises are close to residential areas and there could be a risk posed to children by being exposed to the drinking culture at a young age and the antisocial behaviour and criminal activity that can arise as a result. . and in some instances witnessing adults having care of them being sworn at in Devonport Park and when in a group with their teaching assistant. An increase in licensing hours will lead to an increase in these incidents. Again the committee considered the lack of any specific incidents linked to these premises and that the conditions already operating with the additional 2 to be added, would significantly reduce the likelihood of any problems. In addition the powers conferred by the DPPO has given the police additional powers to deal with problem groups. Given the hours that are the subject of the application being between midnight and 8 am the likelihood of any impact on children is reduced further;*
- *No other representations have been received from the remaining Responsible Authorities;*

Written representations from other parties:

#### **Prevention of crime and disorder**

- *a DPPO is in forces in this area to tackle the issue of street drinking and related crime and antisocial behaviour. To date the DPPO has proven incredibly successful but the problem has not gone away and the requested increase in hours would see an increase in this behaviour again. This was considered to be relevant under this licensing objective. Again the committee considered the lack of any specific incidents linked to these premises and that the conditions already operating with the additional 2 to be added, would significantly reduce the likelihood of any problems. In addition the powers conferred by the DPPO has given the police additional powers to deal with problem groups;*

#### **Public Safety**

- *an increase in hours that alcohol is available will increase threat to public safety with an increase in crime and antisocial behaviour, broken bottles etc. and restrictions on police forces and time. This was considered to be relevant under this licensing objective. Again the committee considered the lack of any specific incidents linked to these premises and that the conditions already operating with the additional 2 to be added, would significantly reduce the likelihood of any problems. In addition the powers conferred by the DPPO has given the police additional powers to deal with problem groups;*
- *the local residents have a fear of crime that arises from street drinkers. They are afraid to walk the streets, go to the park even in the evening. After an improvement in the situation whilst all off*

licences are operating under time constraints, there is a fear that problems will increase again. The community holds the belief that the DPPO safeguarded their community. *This was considered to be relevant under this licensing objective. Again the committee considered the lack of any specific incidents linked to these premises and that the conditions already operating with the additional 2 to be added, would significantly reduce the likelihood of any problems. In addition the powers conferred by the DPPO has given the police additional powers to deal with problem groups. The committee noted that there had been no objections to this application from local residents;*

- the premises are situated next to a vulnerable community and there is a hostel which provides accommodation and opportunities for alcohol rehabilitation. At present there are no premises within in the DPPO with a licence to sell alcohol (off-sales) after midnight. A person battling a craving through the night might be tempted to buy when it is more readily available. *This was considered to be relevant under this licensing objective. Again the committee considered the lack of any specific incidents linked to these premises and that the conditions already operating with the additional 2 to be added, would significantly reduce the likelihood of any problems. In addition the powers conferred by the DPPO has given the police additional powers to deal with problem groups. The committee noted that there had been no objections to this application from local residents. The committee considered the terms of its own Policy document dated March 2014 and in particular page 15. Whilst the hostel in question had provided its objections/views to the DPPO consultation process it had raised no objections to this application. Again the committee considered the lack of any specific incidents linked to these premises and that the conditions already operating with the additional 2 to be added, would significantly reduce the likelihood of any problems;*

#### **Prevention of Public Nuisance:**

- prior to DPPO residents complained of noise, litter ( glass bottles smashed in play park, antisocial behaviour including sexual remarks and harassment. 24/7 sales of alcohol in this area will lead to an increase in these issues. *This was considered to be relevant under this licensing objective. Again the committee considered the lack of any specific incidents linked to these premises and that the conditions already operating with the additional 2 to be added, would significantly reduce the likelihood of any problems. In addition the powers conferred by the DPPO has given the police additional powers to deal with problem groups;*

#### **Protection of Children from Harm**

- the street drinkers tend to gravitate towards children's area such as play parks. *This was considered to be relevant under this licensing objective. . Again the committee considered the lack of any specific incidents linked to these premises and that the conditions already operating with the additional 2 to be added, would significantly reduce the likelihood of any problems. In*

*addition the powers conferred by the DPPO has given the police additional powers to deal with problem groups. Given the hours that are the subject of the application being between midnight and 8 am the likelihood of any impact on children is reduced further*

- (3) The committee have taken into account all relevant representations, relevant representations made by the applicant, the Council's Licensing Policy Document March 2014 and Home Office guidance.
- The licensing policy states that an application for an off-licence may not be approved where the premises are near to alcohol addiction recovery activities or in an area where street drinking affects any of the licensing objectives.
  - Members noted that the management had already demonstrated that they had been able to control without complaint, the impact the additional opening hours granted in August 2014 and there had been no complaints against the premises. In addition the police commented on the quality of the Applicants' training and management. Members considered the proposal that the application be amended for a trial period of 6 months.
  - Having listened to all that was said today the committee consider that they have appropriately considered the terms of the Council policy and that it is proportionate to grant the application subject to conditions which are considered appropriate for the furtherance of the licensing objectives
  - The Committee therefore agree to grant the application to vary subject to the following conditions being added to the licence
    1. as the premises are in an area where there is a Designated Public Places Order in force the variation of the licensable activities namely an increase in off-sales trading hours to 24 hours a day shall be permitted for a period of six months permitted from the date of this variation and thereafter the said hours shall revert to those prior to this variation unless the licence holder shall make a further application for a variation
    2. the entrance door to the shop will be closed to customers between the hours of midnight and 0600. Any sales between these hours will be made through the night pay window.
    3. notices to be clearly displayed close to where the alcohol is exposed for sale, at the point of sale (including the night pay window) advising that the area is subject to a Designated Public Places Order and the effects thereof. The wording of such notice to be agreed with the Police. This condition will fall away should the Order no longer be in force.

43. **EXEMPT BUSINESS**

There were no items of exempt business.