



#plymlicensing



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LICENSING COMMITTEE

Tuesday 6 December 2016
10am
Council House, Plymouth

Members:

Councillor Dr Mahony, Chair
Councillor Churchill, Vice Chair
Councillors Carson, Cook, Sam Davey, Drean, Fry, Hendy, Loveridge, Morris, Parker-Delaz-Ajete, Rennie, Singh, Storer and Winter.

Members are invited to attend the above meeting to consider the items of business overleaf.

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Tracey Lee
Chief Executive

Licensing Committee

Agenda

1. Apologies

To receive apologies for non-attendance submitted by Committee Members.

2. Declarations of Interest

Members will be asked to make any declarations of interest in respect of items on this agenda.

3. Minutes (Pages 1 - 12)

To confirm the minutes of the meetings held on –

- Licensing Committee 7 June 2016
- Licensing Sub Committee 24 June 2016
19 July 2016
25 October 2016

4. Chair's Urgent Business

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

5. Street Trading Report 2017/2018 (Pages 13 - 18)

The Committee will receive the Street Trading report 2017/18.

6. Exempt Business

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

Part II (Private Meeting)

AGENDA

MEMBERS OF THE PUBLIC TO NOTE

that under the law, the Panel is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

7. Confidential Minutes

(Pages 19 - 42)

To confirm the confidential minutes of the meetings held on –

Licensing Sub Committee

24 June 2016

19 July 2016

25 October 2016

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Licensing Committee

Tuesday 7 June 2016

PRESENT:

Councillor Dr Mahony, in the Chair.

Councillor Churchill, Vice Chair.

Councillors Carson, Cook, Sam Davey, Fry, Loveridge, Morris, Rennie, Singh, Storer and Winter.

Apologies for absence: Councillors Drean and Parker-Delaz-Ajete.

Also in attendance: Laura Juett (Public Health Specialist), David McIndoe (Police Representative), Andy Netherton Licensing Service Manager (Ann Gillbanks (Senior Lawyer), David Vickery (Police Representative) and Helen Wright (Democratic Support Officer).

The meeting started at 10am and finished at 11.05 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. To Note the Chair and Vice Chair

The committee noted the appointment of Councillor Dr Mahony as Chair and Councillor Churchill as Vice Chair for the forthcoming municipal year 2016/17.

Councillor Fry took this opportunity to congratulate both the Chair and Vice Chair on their appointments.

2. Declarations of Interest

There were no declarations of interest in accordance with the Council's Code of Conduct.

3. Minutes

The minutes of the following meetings are agreed as a correct record, subject to the inclusion of 'Popworld, 18 Union Street, Plymouth PL1 2SR' reference minute 35 of the Licensing Sub Committee held on 17 May 2016 –

Licensing Committee

- 19 January 2016

Licensing Sub Committee

- 19 January 2016
- 12 April 2016

- 17 May 2016

4. **Chair's Urgent Business**

There were no items of Chair's urgent business.

5. **Licensing Activity Report**

The Director of Public Health submitted the licensing activity report which provided an overview of the various aspects of the work undertaken by agencies involved in regulating the licencing regimes within the Licensing committee; the report also highlighted future work plans and potential changes in legislation or guidance which would have an impact on the committee.

Laura Juett, Public Health Specialist provided an alcohol overview which highlighted the following main points –

- local strategic approach;
- local consumption;
- alcohol related violence – assaults not reported to the police;
- alcohol related hospital admission;
- children affected by parental drinking;
- alcohol related anti-social behaviour;
- alcohol harm mapping;
- Indicators;
- licensing using the intelligence.

The main areas of questioning from Members related to the following –

- (a) whether information relating to Plymouth Against Retail Crime and the street pastor initiative had been included in the alcohol mapping data;
- (b) the current situation relating to the Licensing Act fees which had not changed since being introduced in 2005;
- (c) the introduction of the Community Events and Ancillary Sellers (part of the Deregulation Bill 2014), the health objective (amendment to the Licensing Act 2003) and the right to work checks (part of the Immigration Bill);
- (d) whether the challenge 25 policy could be introduced for all licensed premises;
- (e) whether the work being undertaken on the right to work checks would also tackle the issue of modern slavery;
- (f) whether the gambling policy included lottery outlets;

- (g) whether there had been a signification impact with the introduction of the Scrap Metal Dealers' Act 2013;
- (h) the future funding for the Plymouth PubWatch;
- (i) whether the number of alcohol related violent assaults were seasonal, ie freshers' week.

The committee noted the report.

6. **Information Regarding Delegated Decisions for Applications for the Grant/Variation of Premises**

The Senior Licensing Officer (Fred Prout) presented a report outlining the delegated decisions of applications for the grant/variation of premises licences under Sections 17 and 34 of the Licensing Act, 2003 which covered the period from 31 May 2016 until 20 April 2016.

The committee noted the report.

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Licensing Sub Committee

Friday 24 June 2016

PRESENT:

Councillor Dr Mahony, in the Chair.
Councillor Morris, Vice Chair.
Councillors Churchill and Drean (Fourth Member).

Also in attendance: Catherine Fox (Lawyer), David McIndoe (Police Representative), Fred Prout (Senior Licensing Officer), Duane Seymour (Police Representative) and Helen Wright (Democratic Support Officer).

The meeting started at 2.00 pm and finished at 3.45 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.

1. **Appointment of Chair and Vice Chair**

Agreed that Councillor Dr Mahony is appointed as Chair and Councillor Morris is appointed as Vice Chair for this particular meeting.

2. **Declarations of Interest**

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

3. **Chair's Urgent Business**

There were no items of Chair's urgent business.

4. **Exempt Business**

Agreed that under Regulation 14(2) of the Licensing Act 2003 (Hearing) Regulations 2005 it was in the public interest to exclude the press and public as to hear the matter in public risked prejudicing any ongoing investigations and any court proceedings.

5. **Expedited Premises Licence Review - Beresford Arms, 9 Cumberland Street, Devonport, Plymouth PL1 4DX**

The legal representative confirmed that the information from the police had been received on Wednesday 22 June 2016 at 1451 hours which was in accordance with the restricted time limit to hear an expedited matter.

In light of the fact that several of the existing conditions on the premises licence were not being complied with and the failure of the Premises Licence Holder to engage with the police and other relevant agencies to resolve the issues, the Members had no confidence that any modifications of the existing licence conditions would address the problems or that the premises licence holder would comply with them including any suspension of her license to sell alcohol. The Premises Licence Holder was the DPS.

Members considered there was a real and significant likelihood of imminent further violent incidents. Therefore they consider that in light of the problems outlined by the police, it was proportionate to suspend the premises licence with immediate effect, until the review set for 19 July 2016, in order to promote the crime prevention objective and prevent serious crime occurring on or linked to the premises.

(Please note: there is a confidential minute relating to this item).

Licensing Sub Committee

Tuesday 19 July 2016

PRESENT:

Councillor Churchill, in the Chair.
Councillor Carson, Vice Chair.
Councillors Morris and Singh (Fourth Member).

Also in attendance: Emily Bullimore (Street Operations and Street Trading Manager), Catherine Fox (Lawyer), Graham Hooper (Senior Officer Licensing), R Pengelly (Police Representative) Fred Prout (Senior Licensing Officer), D Seymour (Police Representative), W Tomkins (Police Representative) and Helen Wright (Democratic Support Officer).

The meeting started at 10.00 am and finished at 1.30 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.

6. APPOINTMENT OF CHAIR AND VICE-CHAIR

Agreed that Councillor Churchill is appointed as Chair and Councillor Carson is appointed as Vice Chair for this particular meeting.

7. DECLARATIONS OF INTEREST

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

8. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

9. PLYMOUTH WATERFRONT PARTNERSHIP TRADER APPLICATION

The Committee –

- (a) considered the report of the Director of Health;
- (b) heard from the Street Operations and Street Trading Manager, that the applicant sought a street trading consent to enable her, trading as M&M catering, to sell cold sea food as a hand held snack in a stainless steel handcart as a new street trader in the Plymouth Waterfront Partnership area; that she would be wearing a blue and white uniform and the stainless steel handcart would have a parasol in matching colours with a logo; this colour scheme would fit in with the waterfront theme;

Ms Maguire had obtained all relevant food handling certificates including one for the handling of seafood; her hygiene certificate was rated at 5; the required level was 3; her hand cart had been fitted with additional refrigeration;

- (c) having considered the above representations and report and being satisfied that -
- the proposed area of operation, namely the Hoe and Madeira Road was a 'consent street' under the terms of the Local Government (Miscellaneous Provision) Act 1982 Schedule 4;
 - the applicant held all of the relevant food handling certificates, including the additional one for the handling of seafood, insurances and had excellent references which had been checked by the Street Operations and Street Trading Manager and food handling team;
 - the application was suitable both with regard to the applicant's qualifications and the product being offered.

The committee agreed to grant the applicant Maggie Maguire, trading as M&M, permission to trade in seafood from her hand-pushed cart on a static site on the Hoe or Madeira Road; the specific site to be designated by the Street Trading Manager; the permission will expire on 31 March 2017.

10. **EXEMPT BUSINESS**

Agreed that under Regulation 14(2) of the Licensing Act 2003 (Hearing) Regulations 2005 it was in the public interest to exclude the press and public as to hear the matter in public risked prejudicing any on-going investigations and any court proceedings.

11. **REVIEW OF PREMISES LICENCE: BERESFORD ARMS, 9 CUMBERLAND STREET, PLYMOUTH**

The committee –

- (a) considered -
- the report from the Director of Public Health;
 - heard representations from the Devon and Cornwall Police;
 - heard representations from Environmental Health;
 - heard from the Premises Licence Holder/Designated Premises Supervisor;

- (b) considered that the representations received from the police, the residents and environmental health were relevant under all of the four licensing objectives;
- (c) had regard to the Home Office Guidance for summary reviews and had considered the information provided with a view to determining whether the problems associated with the alleged crimes were taking place on the premises or in connection with the premises and affecting the promotion of the licensing objectives;
- (d) also had regard to both the statutory guidance and its own policy in relation to both reviews pursuant to Section 51 of the Licensing Act 2003 and summary reviews pursuant to Section 53a of the Licensing Act 2003.

The committee agreed that -

- (a) in relation to the review brought under Section 53a of the Licensing Act 2003 that the premises licence should be revoked and further determined that the interim step of suspending the licence taken at the expedited review on 24 June 2016 should remain in effect until the time for appealing the review has expired and any appeal has been determined;
- (b) in relation to the review brought under Section 51 of the Licensing Act 2003 that the premises licence should be revoked.

The committee considered these decisions to be appropriate and proportionate action in the response to the issues heard at today's hearing.

(Please note: there is a confidential minute relating to this item).

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Licensing Sub Committee

Tuesday 25 October 2016

PRESENT:

Councillor Dr Mahony, in the Chair.
Councillor Rennie, Vice Chair.
Councillors Cook (Fourth Member) and Hendy.

Also in attendance: Fred Prout (Senior Licensing Officer), Catherine Fox (Lawyer), David McIndoe (Police Representative), Duane Seymour (Police Representative) and Helen Wright (Democratic Adviser).

The meeting started at 10am and finished at 11.50am.

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.

12. **Appointment of Chair and Vice-Chair**

The committee agreed that Councillor Mahony is appointed Chair and Councillor Rennie is appointed as Vice Chair for this particular meeting.

13. **Declarations of Interest**

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

14. **Chair's Urgent Business**

There were no items of Chair's urgent business.

15. **Exempt Business**

Agreed that under Regulation 14(2) of the Licensing Act 2003 (Hearing) Regulations 2005 it was in the public interest to exclude the press and public as to hear the matter in public risked prejudicing any on-going investigations and any court proceedings.

16. **Transfer of Premises Licence and Application to Vary a Premises Licence to Specify an individual as Designated Premises Supervisor: Mambos, 1 The Money Centre Precinct, Drake Circus, Plymouth/Responses to Notice of Hearing**

The committee -

- (a) had listened to and taken into account all relevant representations;

- (b) had considered the relevant guidance and sections of its licensing policy;
- (c) considered that the action detailed below was appropriate and proportionate to promote the licensing objectives of crime prevention in light of the relevant representations and all that was said by the applicant.

The committee having taken account of the representations agreed to reject the application to transfer the premises licence to Plymouth Mambos Ltd, as it considered appropriate for the prevention of crime objective.

(Please note: there is a confidential minute relating to this item).

PLYMOUTH CITY COUNCIL

Subject:	Street Trading Report 2017 / 2018
Committee:	Licensing Committee
Date:	6 December 2017
Cabinet Member:	The Leader
CMT Member:	Anthony Payne Strategic Director for Place
Author:	Emily Bullimore, Street Operations and Street Trading Manager
Contact details	Tel: 01752 304604 Email: Emily.bullimore@plymouth.gov.uk
Ref:	Street Trading 2017
Key Decision:	No
Part:	I

Purpose of the report:

This report seeks to set the process for the issuing of consents for the 2017 / 2018 trading year.

The Corporate Plan 2016 - 2019:

This report links to the delivery of the corporate priorities defined in the Corporate Plan. In particular:

Confident Plymouth - We will work towards creating a more confident city, being proud of what we can offer and growing our reputation nationally and internationally.

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

Street Trading is operated under the Local Government (Miscellaneous Provisions) Act 1982. The Council's policy is to administer street trading as a trading account and to finance all expenditure from the Consent fees. All activities including enforcement, administration, parking costs and improvements are all financed from the Street Trading account. Progress now needs to be made to generate applications and issue Consents to maintain this income stream for the 2017 / 2018 financial year.

Consent fees for both City Centre and Ice Cream sites were increased by 1.5% for the period 2016 / 2017.

Total budgeted income from the consents shown in the Appendix, assuming 100% occupancy, would be £134k. Additional income arising from this proposed 1% increase, with fees rounded to the nearest pound, would be £1k.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

The issuing of the Street Trading Consents under the Council's street trading policy ensures that all Consent holders are properly licensed and operate in a hygienic and safe manner within the street trading policy guidelines. It also finances the management of Street Trading enforcement.

Equality and Diversity

Has an Equality Impact Assessment been undertaken? No – Each application is assessed on its own merit

Recommendations and Reasons for recommended action:

It is recommended that:

1. The Consent dates for 2017 / 2018 are approved of 1 April 2017 – 31 March 2018
2. The Consent fees set out in Appendix 1, for 2017 / 2018 are approved.
3. The Assistant Director for Economic Development has delegated authority to approve, within Committee policy the issuing of Consents to existing city centre traders seeking to continue trading 2017 / 2018
4. The Assistant Director for Economic Development has delegated authority to approve within Committee policy the issuing of Consents to new traders or contested sites for city centre sites in consultation with the chair and vice chair of the licensing committee.
5. The Assistant Director for Economic Development has delegated authority to approve within Committee policy short-term street trading consents in association with other city centre events and commercial activity.
6. The Assistant Director for Economic Development has delegated authority to approve and set fees for ad hoc street trading applications, within Committee policy.
7. The Assistant Director for Economic Development has delegated authority to approve, within Committee policy the issuing of Consents to existing ice cream traders seeking to continue trading 2017 / 2018
8. The Assistant Director for Economic Development has delegated authority to approve within Committee policy the issuing of Consents to new traders or contested sites for vacant ice cream sites in consultation with the chair and vice chair of the licensing committee.
9. The Assistant Director for Economic Development has delegated authority to approve within Committee policy the issuing of Consents to existing Hoe and Madeira Road trading site seeking to continue trading in 2017 / 2018.
10. For Hoe and Madeira Road trading sites the licensing committee delegate approval to the licensing sub-committee for all new applications.

Reason for recommendations:

These actions are recommended as the quickest option in facilitating the process of renewing Street Trading Consents for the start of the 2017 / 2018 trading year and maintaining the income stream.

Alternative options considered and rejected:

The authority to renew annual Consents and set Consent fees by referral to the Licensing Committee for approval. This would take up Committee time on routine renewals and due to Committee timetables would slow down renewal process which could result in a loss of income.

Published work / information:

None

Background papers:

None

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	

Sign off:

Fin	SGFin 16171 23	Leg	26860/ag/1 5.11.2016	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes / No* please delete as necessary													

1.0 Introduction

1.1 The Council operates a scheme under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 for the control of Street Trading in the City Centre, the Hoe and Barbican areas.

1.2 Under the scheme certain streets have been designated 'Prohibited Streets' where Street Trading (with limited exceptions such as news vendors) is totally prohibited and other 'Consent Streets' where Street Trading is permitted only with the consent of the Council. Within the designated areas the monitoring and enforcement of the Terms and Conditions of Street Trading licenses and the prevention of unauthorised Street Trading is undertaken by enforcement staff, funded in part from the Street Trading Consent fees.

1.3 The council has identified 30 sites or locations within the designated Consented Streets where it will grant Street Trading Consents comprising:

14 sites, in the pedestrianized City Centre

7 Sites in the Hoe and Waterfront area for the sale of ice cream from mobile vans.

1 site in the City Centre from a mobile unit for the sale of ice cream.

8 sites in Hoe and Madeira Road for sale of food and non-food items.

1.4 The purpose of the report is:

a) To set the consent dates and fees for 2017/ 2018

b) To ask that the Assistant Director for Economic development be given delegated powers to approve the issuing of consents.

2.0 Duration of Consents for 2017 / 2018

2.1 It is proposed that all City Centre Consents commence on 1 April 2017 and end on 31 March 2018.

2.2 It is proposed that all hoe ice cream sites (vans) commence on 1 April 2017 and end on 31 March 2018.

2.3 It is proposed that all Hoe Road and Madeira Road food and non-food sites commence on 1 April 2017 – 31 March 2018.

3.0 Consent fees for 2017 / 2018 background

3.1 The Local Government (miscellaneous Provisions) Act 1982 (Sch 4 para 9) provides that a Council may charge fees as it considers reasonable for the granting or renewal of Street Trading consents. In particular, it may take account of the duration of the Consent, the street in which it authorises trading and the description of articles in which the holder is authorised to trade.

3.2 The Council's policy is to administer its street trading scheme as a trading account and to finance all of its expenditure on street trading from the consent fees. The council cannot, however, budget to make a profit on its street trading activities. Therefore the overall budgeted level of consent fee income must not exceed the amount that the Council reasonably consider will be required to cover the total cost of operating the scheme, including the cost of taking criminal and/or civil proceedings against those who trade without consent.

Consent fees were adjusted for 2016 / 2017 by 1,5% and for the year 2017 / 2018 it is proposed that the Consent fees are increased for the City Centre Street Trader pitches and ice cream consent sites by 1% to cover the increased costs of repairs, maintenance and increased salary and support costs.

Total annual income for 2016/2017 for these consents if all consents were let at full capacity is currently budgeted at £134,752. A proposed increase of 1% on this budget, with fees rounded to the nearest pound, is expected to result in additional annual income of £1,108.

The proposed consent fees are set out in Appendix I to this report. This schedule does not propose increases to the current fees charged for outdoor seating and board advertising.

4.0 Allocation Procedure

4.1 Existing Consent holders in the City Centre are granted a degree of preference in the re-allocation of their consents unless applications are received for alternative trades that are sufficiently attractive to possibly warrant displacing an existing consent holder.

4.2 Existing Ice Cream Consent holders are granted a degree of preference in the re-allocation of their consents. Any contested consents or new applications would be considered in consultation with the chair and vice chair of the licensing committee.

4.3 In 2013 the Committee approved the creation of trading sites on Hoe Road and Madeira Road and delegated approval of new applications to the Licensing Sub Committee. As only one site has been let it proposed that all new applications would continue to be considered by the Licensing Sub Committee, and that any renewals are given delegated authority to the Assistant Director for Economic Development

5.0 Street Trading during City Centre Events

The City Centre Company organises a number of events and entertainment each year in the City Centre, City Centre space is also used commercially for promotional activity. Opportunities for short-term street trading during these periods are often requested. This type of short-term street trading can add to the attractiveness of the City Centre making the City Centre a more desirable place to visit. It is proposed that in these instances the Assistant Director for Economic Development may approve short-term licenses for street trading associated with events or promotional activity. During events in the City Centre, full time Street Traders are not asked to move out of the City Centre.

6.0 Ad hoc Street Trading

6.1 From time to time applications are received from entrepreneurs with propositions who wish to trade in the City Centre for a period less than 12 months. They are self-sufficient and do not require a street trading stall. An example of these may be an artist wishing to draw and sell their personal caricatures and another person seeking to sell his poetry on scrolls. Neither of these activities has the potential to clash with permanent shops or traders but would add to the vibrancy of the City Centre and help maintain the income stream. This type of trading does not require a fixed site and could be located comfortable and safely within the City Centre.

Appendix I

SITE	LOCATION	TOTAL CONSENT FEES 2016 / 2017	PROPOSED FEE 2017 / 2018
CITY CENTRE SITES			
2A	New George Street (nr. Former Woolworths building)	6237	6299
2B	New George Street (WHSmiths)	6237	6299
2D	New George Street (nr. Sundial)	6237	6299
9	New George Street (Waterstones)	6237	6299
3A	Bedford Way (Royal Parade end)	3755	3793
3B	Bedford Way (New George Street)	6237	6299
4A	Old Town Street	3755	3793
7	New George Street – operating from top outside Drakes Circus to the area opposite Bedford Way	2882	2911
8	New George Street Winter (Sundial area) seasonal	2422	2446
8	New George Street Summer (Sundial area) seasonal	1268	1281
10	Sundial East	7437	7511
11	Sundial West	7437	7511
12	Cornwall St o/side Superdrug	4183	4225
13	Place De Brest East	4183	4225
14	Place de Brest, o/s Specsavers	4183	4225
ICE CREAM SITES			
B	Madeira Road	4367	4411
C	Madeira Road	4367	4411
E	Hoe Road	10773	10881
F	Hoe Road	10773	10881
G	Hoe Road / Grand Parade	5428	5482
H	Pier Street	1298	1311
I	Cliff Road	1056	1067
HOE AND MADEIRA ROAD SITES			
1	Hoe Road colonnade west	3000	3000
2	Hoe Road mid-west colonnade	3000	3000
3	Hoe Road mid – east colonnade	3000	3000
4	Hoe Road colonnade east	3000	3000
5	Hoe Road lido west	3000	3000
6	Madeira Road triangle west	3000	3000
7	Madeira Road triangle east	3000	3000
8	Madeira Road adjacent to cannons	3000	3000
TOTAL*		134,752	135,860

*Assumes 100% occupancy

The following relates to exempt or confidential matters (Para(s) 1, 2 of Part 1, Schedule 12A of the Local Govt Act 1972). Any breach of confidentiality could prejudice the Council/person/body concerned & might amount to a breach of the councillors /employees codes of conduct.

Document is Restricted

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Licensing Sub Committee

19 July 2016

Not for publication under Regulation 14(2) of the Licensing Act 2003 (Hearing) Regulations 2005.

The committee agreed to hear the representations in relation to both reviews (a) Section 51 lodged on 1 June 2016 and 9b) Section 53a lodged on 22 June 2016 together.

I. The committee –

(a) considered -

- the report from the Director of Public Health;
- heard representations from the Devon and Cornwall Police that -
 - ▶ on 1 June 2016 they had lodged an application under Section 51 of the Licensing Act 2003 for a review of the premises licence in relation to the Beresford Arms and on 22 June 2016 an application for an expedited review of the premises licence at 9 Cumberland Street, Devonport known as the Beresford Arms under Section 53a of the Licensing Act 2003;
 - ▶ these premises were authorised for retail sale of alcohol between the hours of 10:00-01:00 Sunday to Wednesday and 10:00 to 02:00 Thursday to Saturday;
 - ▶ the police licensing department had received an application on 9 October 2015 to transfer the licence of the premises to the current licence holder and at the same time she made an application to become the Designated Premises Supervisor (DPS) of the premises; both these applications were granted on 20 October 2015;
 - ▶ these were premises that under management of previous licence holders had been the subject of earlier reviews and amendments of conditions due to concerns as to noise and public order issues;
 - ▶ from the point that Ms Burrell was granted the premises licence and became the DPS on 20 October 2015, the incidents of anti-social behaviour, drunkenness and violent crime had increased;

- ▶ on 21 November 2015 at 01:00 an assault took place on the premises, the offender was an employee of the premises; the DPS was not present at the end of the night and did not see the incident;
- ▶ on 18 December 2015 a drunk male exited the premises and caused damage to a parked vehicle; investigations by the police licensing team established that it was common practice for people to stand outside the premises drinking and smoking; there were concerns as to the customers' activities and noise they were generating;
- ▶ on 24 April 2016 a fight occurred as patrons left the premises which lasted for approximately 10 minutes and involved shouting, swearing, fighting and smashed bottles; part of this incident was recorded by an environmental health officer on this mobile phone and produced to the police. The decision was taken not to produce them to this meeting for fear the complainant could be identified from the angle of the recording;
- ▶ on 19 June 2016 two serious assaults took place in a road adjacent to the premises; two men were assaulted and suffered grievous bodily harm at the hands of a group of customers using the premises immediately before and after the assaults; a male was seen to enter the Beresford Arms at 01:10hrs and a few seconds later six males ran out of the premises into Chapel Street, where the assault took place, followed a few minutes later by another three males; several of these males then returned to the premises at 01:17 hours in separate groups; there were members of the group that fitted the descriptions given by the witnesses;
- ▶ the CCTV images from four of the eight cameras in the premises were shown at the hearing; they showed a man pulling up outside in a car, getting out and entering the pub; images from three cameras inside the premises showed this man speaking with some patrons, some of whom rushed out of the premises immediately, with others following them out one at a time; the initial six exited the CCTV shot at the bottom right where the police explained there was a mini roundabout and the way to Chapel Street; the CCTV images showed the PLH/DPS behind the bar and looked up noting their departure; three minutes later two men that were playing pool with a third watching them were approached by a fourth man who spoke with them and they were all seen exiting the premises; the PLH/DPS

was seen closing the front door and turning off a gambling machine; these men exited the camera shot top right where, the police explained was a service lane which led to Chapel Street;

- ▶ the CCTV images showed approximately six minutes later the men returning in two groups; the men from the second group began to do 'low fives' with each other and pat each other on the shoulder; they returned to the bar, their drinks and the pool table; the PHL/DPS was again behind the bar and noticed their return; the outside camera recorded the two groups coming back from two different directions both of which lead to Chapel Street;
 - ▶ the police accepted that only images from four out of the eight cameras were shown at today's hearing but they were satisfied that all relevant information was produced; they agreed that the shots shown revealed the DPS moving to the front door and closed it after the men had left;
- (b) these incidents were considered relevant under the licensing objectives of prevention of crime and disorder, public safety and public nuisance -
- the police had repeatedly experienced difficulty in retrieving the CCTV footage on the premises thus hindering their investigations into crimes and on one occasion the images had been deleted; the most frequent excuse made was that nobody knew how to operate the system; this was a breach of a condition attached to the licence;
- (c) this was considered to be relevant under the licensing objectives of prevention of crime and disorder and public safety -
- the premises were poorly managed and the PHL/DPS had failed to engage positively with the police licensing department on numerous occasions to discuss concerns and issues arising out of particular incidents; attempts to make contact had been made by personal visits, telephone messages and emails at various times of the day with messages being left with staff by both licensing officers and uniformed officer;
 - the PLH/DPS did respond to a letter from the police licensing team dated 11 January 2016 and attended a meeting on 28 January 2016 at which the concerns regarding the operation of the premises were made clear to her and she was asked to provide an action plan within 28 days (25 February); no action plan had ever been received;

(d) this was considered to be relevant under all of the licensing objectives -

- the police had received information regarding underage drinking;

(e) this was considered to be relevant under the licensing objectives of protection of children from harm and prevention of crime and disorder; however, no direct evidence was supplied in relation to this -

- on 4 May the Police Neighbourhood Beat Team conducted an operation in Cumberland Street and received complaints from its residents in relation to these premises. On 22 June 2016 statements were obtained from two local residents which had been submitted as part of the police representations; all complaints report that the following occurred on a regular basis -

- ▶ after hours drinking 'lock-ins';
- ▶ loud music and shouting from within the premises going on until 2am or 3am in the morning which was disturbing residents' sleep and that of their children;
- ▶ the volume of the music vibrates in residents' homes;
- ▶ loud shouting and swearing from patrons standing and drinking outside of the premises and presenting in an intimidating manner to residents wishing to pass;
- ▶ patrons exiting the premises urinating in the street, against buildings;
- ▶ throwing bins over, throwing and smashing glasses and bottles on the pavement and road, none of which was cleared up by those working at the premises;
- ▶ that the broken glass was a danger to residents and their vehicles and that the behaviours of the groups outside the premises was intimidating to their children;

- in addition to witness statements from the complainants a statement dated 24 April 2016 from an Environmental Health Officer confirmed that he had witnessed a crowd of men outside the premises shouting and swearing and being intimidating, a man urinating in the street, a fight, unacceptable noise emanating from inside the premises and a man in the vicinity of the premises holding a glass with a drink in it;

(f) these incidents were considered to be relevant under all four licensing objectives -

- in oral submissions the police indicated that as the incidents

were coming on a regular basis but at a variety of times and days they did not feel that there were any modifications to the conditions, such as door staff, that would resolve the causes of the problem;

- these premises were difficult and would take a very experienced DPS to resolve them;
- it is their view that the root cause of the issues stemmed from the PLH/DPS's lack of strong management and merely changing the DPS would not resolve the problem; her lack of engagement and breach of licensing conditions had prevented addressing the problems in another way; her influence over the premises would continue with any option other than revocation;

(g) heard representations from Environmental Health that -

- they had received the following complaints -
 - ▶ 23 March 2016 of unacceptable noise emanating from the premises and that trading was taking place beyond licensed hours until 3am;
 - ▶ 18 April 2016 of unacceptable noise and broken glass in street smashed by customers;
 - ▶ 24 April 2016 of unacceptable noise;
- the PHL/DPS had failed to respond to Environmental Health letters sent on 31 March 2016 addressed to the PLH/DPS with copies being sent to both the premises and her home address; the letter requested that she make contact to discuss the complaints; she also failed to respond to three voicemail messages which were also left on the number listed on the premises licence; she had however left a voicemail message on the Environmental Health Officer's telephone on 14 July 2016 which was passed onto the Licensing Officer;

(h) these representations were considered relevant under the licensing objectives of public nuisance, public safety and protection of children from harm-

- received written representations from other interested parties namely -
 - ▶ a local resident who had called out the Environmental Health Officer on the night of 24 April 2016 due to the volume of noise stated that when the premises licence was transferred the last time after being closed, the original licensee remained working there which meant the same group of problem customers

- ▶ continued to drink there;
 - ▶ he reported ongoing problems such as glasses and bottles being smashed by the customers and that no one from the premises ever cleared it up; that on one occasion the tenants of the bedsits above the premises threw something out of the window narrowly missing a customer which led to a shouting match; the licensee did come out but only to support her tenants;
 - ▶ vehicles were getting damaged from the customers' behaviour and the broken glass; on one occasion a car drove over a bottle and a piece shot out from under the car and nearly hit a pedestrian;
 - ▶ there were a lot of children in the street that witnessed the language, shouting, swearing and fighting by drunk people;
- (i) this was considered relevant under all four licensing objectives, however the complainant was not able to attend and the committee did not have the opportunity to raise questions; the committee noted that the complaints mirrored those presented by the Police and Environmental Health;
- (j) heard from the PLH/DPS
- the PLH/DPS accepted that she had not responded to phone calls and messages and accepted responsibility; as at the interim hearing, she accounted for this stating a former member of staff had been breaking in and had stolen two phones from her;
 - she commented on the CCTV evidence stating that she was confused that images were only shown from four out of the eight cameras; she stated that she had footage which showed that when the groups of men returned to the premises the front door was closed and she had opened it; she had only let them back in as one said he had lost his keys; it showed them going to the bottom of the pub, that she did not carry on serving and they were gone in two to three minutes;
 - she explained that the man who pulled up outside the premises, parked and then entered was a friend of hers; she alleged that she had called him to say that there was a group of young lads in the premises that she did not know and she wondered what they wanted and if he knew them;
 - under questioning by members, she explained further that it was unusual for strangers to come to the pub; she was not worried by the men, they were behaving; her friend came in and spoke to them and then they left; she stressed they were not regulars and she had not seen them before;

- Members pressed her on the reasons for the telephone conversation she said she had made to the man arriving in the car, which caused doubt in their minds as to her explanation of the telephone call; CCTV evidence suggested a lack of engagement between the friend and PLH/DPS when he entered the premises; he was seen talking to individual patrons, then leaving the premises with some of these patrons but did not return to the premises with the groups seen returning from the direction of Chapel Street;
- she stated that she had called a number of customers on occasions if she had needed them;
- on this occasion she said, she had stated she would be closing shortly which was why they left and when they did she shut the gaming machine down and closed the front door; she accepted this was some 45 minutes before closing time of 2am but she was not busy and had let the other member of staff go approximately an hour and a half earlier; after the group of men left she began clearing the drinks;
- when asked if she remembered getting the letter from Environmental Health, copies which were sent to both the premises and her home address, she said she could not recall and at the time it was sent, she was living partly over the premises and partly at the home address;
- she had not produced the action plan required by the Police Licensing Team following her meeting with them in January 2016, as she had thought that the Police Licensing Team would contact her to arrange another meeting which she would take it to; they did not contact her with another meeting time;
- she was asked if she had any proposals to alleviate concerns to offer the committee as to a way forward; she proposed that she removed herself as DPS and someone called Sean who was moving upstairs above the pub and was taking a licensing course would take over; she would take care of the food as regulars of all ages were asking her to do food;
- she stated she had not received any complaints from locals about noise and she often asked at the shop etc; she and her staff did pick up any smashed glass, although accepted that on one occasion Environmental Health had arranged for it to be cleaned up;
- she explained her different accounts of what happened on the night of 19 June, provided to the interim hearing and

today's hearing by stating she had got the wrong night at the hearing on 24 June 2016; she had thought it was the Friday night that was being discussed;

- she stated that the Beresford Arms was known as a 'trouble' pub which attracted young males and it could get loud; she was trying to address this with quiz and karaoke nights; she asked for volunteers for a pool team and she had enough takers for two teams; she had only been the DPS for six months and it took time to turn a premises around, changes were beginning to be seen;
- (k) when reaching its decision the committee took into account the representations received, the summary of evidence and witness statements from the Police, Environmental Health and local residents and the responses given at the hearing from the PLH/DPS;
- (l) the committee -
- considered that the representations received from the Police, the residents and Environmental Health were relevant under all of the four licensing objectives;
 - has had regard to the Home Office Guidance for summary reviews and had considered the information provided with a view to determining whether the problems associated with the alleged crimes were taking place on the premises or in connection with the premises and affecting the promotion of the licensing objectives;
 - also had regard to both the statutory guidance and its own policy in relation to both reviews pursuant to Section 51 of the Licensing Act 2003 and summary reviews pursuant to Section 53a of the Licensing Act 2003;
 - agreed that based on what it had heard that the causes of all identified problems stemmed from the poor management of the PLH/DPS; issues had increased since she took over as PLH/DPS; it had also found her representations between the two hearings and within this hearing to be contradictory; she had demonstrated a lack of proper engagement and when she had engaged she failed to follow through with any action; it considered that she did not have the ability to control her patrons or staff; all these factors rendered her incapable of managing the premises to a required standard;
 - in relation to both reviews had considered the lesser options, namely -

- ▶ there should be a modification of the conditions of the premises licence;
 - ▶ whether there should be an exclusion of the sale of alcohol from the scope of the licence;
 - ▶ whether the DPS should be removed from the licence;
 - ▶ the suspension of the licence for a period not exceeding three months;
 - ▶ the revocation of the licence;
- (j) however for the reasons above the committee could take no assurance that any of the lesser options would be sufficient or appropriate to resolve the problems at issue; the problems stemmed from the PLH/DPS's personal management;
2. The committee agreed that -
- (a) in relation to the review brought under Section 53a of the Licensing Act 2003 that the premises licence should be revoked and further determined that the interim step of suspending the licence taken at the expedited review on 24 June 2016 should remain in effect until the time for appealing the review has expired and any appeal has been determined;
 - (b) in relation to the review brought under Section 51 of the Licensing Act 2003 that the premises licence should be revoked.

The committee considered these decisions to be appropriate and proportionate action in the response to the issues heard at today's hearing.

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The following relates to exempt or confidential matters (Para(s) 1, 2 of Part 1, Schedule 12A of the Local Govt Act 1972). Any breach of confidentiality could prejudice the Council/person/body concerned & might amount to a breach of the councillors /employees codes of conduct.

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