



#plymlicensing

Democratic and Member Support

Chief Executive's Department
Plymouth City Council
Ballard House
Plymouth PL1 3BJ

Please ask for Helen Rickman/
Jamie Sheldon
T 01752 397444/ 304001
E
helen.rickman@plymouth.gov.uk/
jamie.sheldon@plymouth.gov.uk
www.plymouth.gov.uk/democracy
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LICENSING COMMITTEE

Tuesday 5 December 2017
10.00 am
Council House, Plymouth

Members:

Councillor Dr Mahony, Chair

Councillor Churchill, Vice Chair

Councillors Carson, Cook, Sam Davey, Drear, 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 - 68)

To confirm the minutes of the Licensing Sub Committee meeting held on the following dates:

- 20 December 2016
- 04 April 2017
- 09 May 2017
- 30 May 2017
- 04 July 2017
- 18 July 2017
- 01 August 2017
- 12 September 2017
- 10 October 2017
- 7 November 2017

Also to confirm the minutes of the Licensing Committee meetings held on the following dates:

- 06 December 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 2018 / 2019: (Pages 69 - 76)

6. Licensing Activity Report: (Pages 77 - 84)

7. Information regarding delegated decisions for applications for the grant / variation of premises licences: (Pages 85 - 88)

8. 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 law, the panel is entitled to consider items in private. Members of the public will be asked to leave the meeting when such items are discussed.

9. Confidential minutes

(Pages 89 - 92)

To approve the confidential minutes:

- 20 December 2016 Licensing Sub

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Licensing Sub Committee

Tuesday 20 December 2016

PRESENT:

Councillor Dr Mahony, in the Chair.
Councillor Hendy, Vice Chair.
Councillors Churchill and Rennie.

Also in attendance: Kristin Barnes (Democratic Adviser), Ann Gillbanks (Senior Lawyer) and Fred Prout (Senior Licensing Officer).

The meeting started at 10.00 am and finished at 10.40 am.

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

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

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

18. **Declarations of Interest**

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

19. **Chair's Urgent Business**

There were no items of Chair's urgent business.

20. **Exempt Business**

Agreed that 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 they involve the likely disclosure of exempt information as defined in paragraphs 3 and 5 of Part I Schedule 12a of the Act, as amended by the Freedom of Information Act 2000.

21. **Application for Renewal and Variation of Sexual Entertainment Venue Licence for Temptations T2, 6-8 Union Street, Plymouth**

The committee agreed to grant the application as follows –

- (1) the hours of operation are to be Sunday to Monday 9pm to 5am with a variation to open on the week leading to Christmas Tuesday 20 December 2016 to Friday 23 December 2016 inclusive from midday to 5am;

- (2) the premises will be closed on Christmas Day, New Year's Eve and New Year's Day;
- (3) the licence will be subject to the terms and conditions proposed by the applicant and the additional condition of -
 - (a) all performers at the start of work each day will sign a register to confirm that they are aware of the house rules, the use of social network sites and will leave all mobile phones or photographic recording devices in the changing rooms;
 - (b) the Duty Manager will ensure daily before opening that the CCTV system is recording correctly and prominent red recording signs are in place by monitors and checked throughout the night to ensure continuous recording;
 - (c) the Duty Manager will be responsible at the end of daily business to ensure that all patrons must leave the premises.

(Please note: there is a confidential part to this minute)

Licensing Sub Committee

Tuesday 4 April 2017

PRESENT:

Councillor Dr Mahony, in the Chair.
Councillor Rennie, Vice Chair.
Councillors Carson (Fourth Member) and Sam Davey.

Also in attendance: Sharon Day (Lawyer), Fred Prout (Senior Licensing Officer), Will Tomkins (Environmental Health Officer) and Helen Rickman (Democratic Support Officer)

The meeting started at 10.00 am and finished at 2.15 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 was appointed as Chair and Councillor Rennie was appointed as Vice Chair.

2. **Declarations of Interest**

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

3. **Chair's Urgent Business**

There were no items of Chair's Urgent Business.

4. **Application for Review of Premises Licence for Plymstock Inn, 88 Church Road, Plymstock, Plymouth**

The Committee:

1. considered the report from the Director for Public Health;
2. heard from Environmental Health, considered their written representations and heard live evidence from a local resident. A summary of the same is recorded below:
 - the premises are surrounded by residential properties and noise disturbance is arising from live music, karaoke and other entertainment;
 - there have been on and off complaints of noise from the premises since around 2008 and the complaints have depended upon the type of music and the management of the premises;

- Environmental Health has been working with the current management since October 2015 to try and address the noise nuisance, however noise levels continue to cause disturbance, particularly with regards to live music events at weekends. The outside area/beer garden also causes problems particularly after 1am;
- an abatement notice was served in September 2016 and there has been no considerable improvement since then;
- Mr James Wright became the PLH on the 9 October 2015 and Mr Peter Wright is the Designated Premises Supervisor;
- the premises are currently licensed to have live and recorded music:
Sun - Wed 8am - midnight
Thu - Sat 8am - 1am
- live music is unregulated between 8am - 11pm but due to the problems experienced at the premises this needs to be brought within the control of the Licensing Act 2003;
- there are conditions on the licence at B1-5 which require the management to take actions during entertainment however at present the existing conditions on the licence are only enforceable after midnight;
- Environmental Health says that these are not suitable to protect local residents from being disturbed by live and recorded music and patrons using the outside area. Environmental Health outlined the contact that they had made with the PLH (Premises Licence Holder) to try and find a way forward. There had been telephone calls to explain the problems, letters written and an agreed action plan drawn up in agreement with the PLH. The action plan had never been signed and returned by him. When officer's visited and witnessed problems of noise they had whenever possible, met with the PLH to discuss what needed to be done to address the problems;
- during visits officers had noted that the PLH were using an App to try and record decibel levels and had advised the PLH on a few occasions that whilst decibel levels could be recorded, the effectiveness of this depended on the conditions that existed at the time and that subjective assessments were just as important;
- a local resident explained the noise problems she had encountered and the personal effect this had had on her and her family situation;
- in light of the problems reported Environmental Health recommended that the existing conditions were replaced and that regulated entertainment is restricted;

- if the committee was not minded to remove regulated entertainment from the licence then further conditions were suggested as a way of controlling regulated entertainment and that as a result section 177A of the act would not apply to the licence;
- Environmental Health's evidence was that:

Noise from the outside area/beer garden

- residents reported problems from patrons in beer garden/outside area shouting and swearing and rowdy behaviour. There were limited problems with this during the week but the main problems occurred from Thursday until Sunday. This consisted of foul, threatening, aggressive language, singing, shouting and arguments. The noise could be frightening and was generally worse after 9pm. It was particularly bad at closing time between 1am and 1.30am. There had been times when the noise could be heard over the television of the complainants;
- the foul language was clearly audible in a child's bedroom and this was unacceptable. The Child was asking questions about the language being used. There were also various ear muffs in their bedroom to prevent them from having to listen to the noise and language;
- the noise from the beer garden caused significant distress to residents and prevented them from relaxing and sleeping. Some residents had to have sleeping pills to cope with the noise;
- Environmental Health Officers had visited in response to complaints on many occasions and witnessed the problems reported by residents. Dates where problems had been witnessed were the 16.9.16, 24.9.16, 25.9.16 13.1.17, 28.1.17, 3.2.17, 10.3.17 and 11.3.17. During a visit on the 10.3.16 the officer had noted that whilst noise was a problem the staff had taken steps to address it by moving patrons inside;

Noise from music

- residents had reported that live music was a particular problem. Music, song lyrics and thumping bass could be heard in residents' properties even with the windows closed. Friday and Saturday evenings were particularly bad. Residents considered that noise escaped from the premises when the doors were opened;
- one resident reported that on Sunday - Thursday there were few problems but on a Friday and Saturday night it was like living near a nightclub and sometimes the music was loud enough to allow them to feel they were actually in the pub itself;
- one resident stated they accepted the noise level up to 10.30pm but after that it disturbed them with thumping bass.

- the loud music meant that televisions had to be turned up to hear programs and it was not possible to read a book. The music also disturbed sleep;
 - in summer, live music taking place outside made it unbearable to live in some properties;
 - the residents all accepted that some noise was to be expected when living near to a pub however this noise was beyond what was acceptable.
 - Officers had visited the complainants' premises and also witnessed the problems. In particular visits where problems were noted were recorded on the 24.9.16, 25.9.16, 3.2.17, 4.2.17, 28.1.17, 4.3.17 and 11.3.17.
 - evidence was presented to committee of further music noise from the premises on the 1.4.17. An Environmental Health Officer had witnessed intrusive music noise in the complainant's bedroom which was coming from the premises. The noise started at around 10.45pm and was continuing when the officer left the area at 11.15pm. The music noise was loud enough to disturb sleep. As he passed the pub the officer noted that the windows were vibrating from the music noise;
 - the above is a summary of the evidence provided. The full evidence is detailed in witness statements from both officers and residents presented by Environmental Health as part of their representation. These statements were taken into account by committee when reaching their decision. With regard to the evidence in relation to the incident on the 1.4.17 the committee accepted the evidence which had been read out as this had been provided directly from the officer's written record of the visit;
 - the committee considered that the evidence provided was relevant under the licensing objectives of Prevention of Public Nuisance and Protection of Children from Harm
3. heard from the local resident whose representation appears at appendix 2 in the report. Their verbal and written representations were considered and are summarised below:
- raised concerns that the review had not been properly advertised. In response to this the licensing officer informed committee of the advertising steps that had been taken to comply with the requirements;
 - whilst they supported live music and didn't mind hearing the music during the day, the noise went on late into the night and was at levels that were unacceptable. The bass level was extreme and could be felt resonating in their chest when they lie on their bed. Open air music events in warmer months are like having a festival on their doorstep. The noise levels interfere with sleep and their quality of life;

- problems also arose from noise from patrons which consisted of fraught conversations, singing, shouting and tears. This noise goes on for an hour or more after the pub closes and is loud and aggressive. This is at its worst from Thursday through to Sunday and during the summer months. The effect is that sleep is disrupted;
- they are regularly woken by patrons leaving the premises who congregate in groups locally before heading home;
- the management fail to control rowdy clients;
- it was accepted that some noise is likely when you live near a pub but currently this is pervasive;
- children were also left unsupervised in the garden whilst adults drink throughout the day;
- it was further suggested that there were problems with underage drinkers at premises;
- a Facebook post was produced in the representation which suggested that on the 01.02.17 the pub was reportedly over crowded with little visible management;
- that the conditions which were suggested by Environmental Health seemed to be a positive approach and, if they were properly implemented, should be a big improvement;

The committee considered the representations raised above were relevant under the licensing objectives of prevention of public nuisance, public safety and protection of children from harm and were taken into account when reaching their decision.

4. considered the written representation at appendix 3 of the report which detailed that:
 - the noise is no louder than it has ever been either through music or from the patrons. They considered that the problem was that the population has become older and that is what causes the noise to be a problem. This point was noted as being relevant under the prevention of public nuisance licensing objective and was taken into account by the committee when reaching its decision;
 - the pub provides great entertainment and supports local artists. They considered that it would be a shame to lose the fantastic acts put on by this well run pub. This point was not considered by committee when reaching its decision as it was not relevant to any of the licensing objectives;
5. considered that the representation at appendix 4 of the report from the freeholder was not relevant to any of the licensing objectives and therefore the committee did not take this into account when reaching its decision;

6. heard from the legal representative for the PLH and witnesses called on their behalf as follows:
- the Police have not made any representation and had only been called to the premises twice and neither occasion had anything to do with trouble occurring at the premises;
 - the police had been at the premises on 1.4.17 at 11.15pm and had reportedly commented that they thought the premises were closed as there was no noise. The PLH suggested that a check with the Police would reveal which officers it was and what they had said;
 - a public house has been located at this address since 1876, providing refreshment and entertainment for many years. The premises have been in the location long before most of the neighbouring residential properties;
 - it is a listed building which causes problems with glazing and soundproofing;
 - the business employs 27 staff and contracts live musicians and casual staff for special occasions. It is a community hub serving the people of Plymstock with emphasis on family traditions and support for the community with fund raising and events for community groups and charities. It is very popular and the overwhelming proportion of business is local. If live music stops then people will lose jobs as the business will have to scale down. The community don't want to see pub close;
 - in accordance with customer demand, live music is primarily provided on Friday and Saturday evenings. An online petition presented as part of the representation which shows the overwhelming support the premises has;
 - the Premises were taken over by the Wright family in 2011, initially by Peter Wright who is the current Designated Premises Supervisor. He has been a licensee for 25 years and runs the Three Crowns as well. His son James took over in 2015. He has worked in the licensed trade for about 8 years and holds a personal licence;
 - when Peter Wright was in charge there were no problems because he was trying to build on the community aspect. He has been ill since 2015 and has had to get James Wright to assist in the management of the premises;
 - James Wright as PLH did his best and initially things were reasonable. This is shown by the lack of complaints. However things deteriorated at the end of last year and beginning of this year. Due to his father being seriously ill the burden of the family business fell on the PLH. In addition to this he and his partner suffered a personal trauma and he admits that he took eye off ball with regards to the business. The PLH does not want problems with neighbours;

- due to his father's illness they are proposing to appoint Mr Twomey as the Designated Premises Supervisor. This gentleman holds a personal licence and has worked in the licensed trade for 10 years. He will take on responsibility of day to day management of pub. He is an approachable man and is known in the locality and is best equipped to take on that role;
- they are also proposing to appoint Mr Baker, who has worked at the pub for last 9 months, to be in charge of regulated entertainment. It will be his role to liaise with performers, karaoke, control sound levels and generally be responsible for monitoring noise from music;
- the aim of the above two measures is to ensure that people have specific roles in the business so that less of the burden falls on the PLH;
- current complaints seem limited to only one or two residential properties. The majority of the neighbourhood support the pub and have no complaints;
- in relation to the music noise, the PLH considered that a noise limiter would resolve the problems and Mr Baker will be responsible for ensuring it is working. They had not been able to address the issue of the noise limiter earlier as Environmental Health had not provided any guidelines on what decibel levels would be suitable. It was explained that staff did currently carry out decibel recordings to assess noise;
- in relation to the noise from the Beer Garden it was accepted that it could be a problem in the evenings as it is understandably popular and people tend to forget where they are and that noise travels. Mr Wright will employ two doorman on Friday and Saturday nights and one would be dedicated to the outside area for the evening. There were already notices on tables asking patrons to respect neighbours and the garden benefited from CCTV. The door supervisors would also be responsible for supervising patrons leaving the pub and dispersing;
- the PLH stated that they mostly accepted the conditions put forward by Environmental Health as a way of dealing with the problems however there were a couple of points with which they disagreed:
 - they would be happy with regulated entertainment being limited to twice per week but the proposal of once a week was not workable for them;
 - the suggestion that music performance was limited to two hours was also not accepted. Two hours is the average amount of time a performance takes and therefore to take into account setting up and breaks three hours was more workable.

- Witness one told the committee:

he lives 100 yards away from the premises and has no problems with loud music. The pub does a lot of charity work and is a community hub during the day. If the music was removed from the licence food prices would have to go up. PLH had spent a lot of money on soundproofing on the windows to try and address noise problems. He considered that the noise limiter would go a long way to dealing with any problems experienced by some residents. He did not agree that the beer garden caused a problem and disputed that the children using it were not supervised. He pointed out that there were signs on the tables advising that children should be supervised;

- Witness two told the committee:

she lives 50 yards away from the pub and has only experienced one problem with music noise from the pub in October last year. She had raised this with the PLH and it had been resolved. If she had ongoing problems with noise from the premises she would have moved house. She uses the pub and takes her children and grandchildren there and is friendly with the PLH. She said that neighbours she had spoken to had said that they didn't have any problems with noise from the pub and some of them lived closer than she did. She stated that she had heard music in the summer but this had not bothered her as a bit of noise now and again is ok if it's for a charity event. She disputed that children were not supervised in the garden and had never had cause to use earmuffs on her grandchildren or children because of the noise from the beer garden. She stated that if the music was taken away from the premises it wouldn't benefit anyone;

in reaching its decision, the committee took account of what was said by the PLH and witnesses. It further noted the difficult family circumstances which existed. However the committee did not:

1. did not accept the hearsay evidence which had been provided about what the police said in relation to the incident on the 1.4.17 as there was nothing to substantiate that this had been the view of the Police Officers. It was noted by the committee that the alleged comments by the Police were at complete odds with the evidence of the named Environmental Health Officer;
2. did not take account of the hearsay evidence from the witnesses of what other neighbours had told them about the music noise as there was nothing to substantiate these views from the people concerned;
7. allowed a short adjournment for the PLH and Environmental Health to discuss the proposed conditions with a view to coming to an agreement and way forward. Conditions were subsequently agreed between the two parties and presented to the committee.

8. considered the issues raised in the review and representations as follows:

- lack of supervision of children using the premises by parents. This had been disputed by the witnesses for the PLH. The committee noted that the premises had signs up requiring parents to supervise their children and did not consider that further action by the committee was required on this point.
- the suggestion of underage drinking. The committee noted that no representations had been raised by the Police on this point and therefore did not consider that any action was required on this point;
- the suggestion of overcrowding - The committee did not consider that they had sufficient information in relation to the incident and this had not been raised as an issue by Environmental Health or any other responsible authority and therefore no action would be taken on this point;
- noise from music and from patrons using the outside area/beer garden. The committee were satisfied on the evidence it heard that these issues were causing substantial problems to local residents. However the committee considered that the conditions agreed between the PLH and Environmental Health would address the problems which had been highlighted;

9. therefore it was agreed that:

- the following conditions would be applied to the licence:

Use of the Outside Seating Area

1. after 21:00 hours no drinks are to be taken outside to the outside area and no consumption of drinks to occur after 21:30 hours. The area to be closed to patrons at 22:00

2. a sign is to be placed in the outside rear area specifying that no drinks are to be taken into this area after 21:00 hours

3. after 21:30 hours noise levels in outside areas are to be monitored and controlled to minimise any potential impact on local residents

- the following conditions are applied in accordance with Section 177A(4) of the Licensing Act 2003;

Noise nuisance

1. the performance of regulated entertainment will cease by 23:00 hours.

2. no regulated entertainment will take place until a noise limiting device (the specification and design to be agreed with Environmental Health Service) is fitted so that all regulated, live, Karaoke and recorded music (including the Juke Box) is channelled through the device(s). The

maximum noise levels will be set by agreement with the Environmental Health Service and will be reviewed from time to time as appropriate. The noise limiting device must be fully functional and in proper working order at all times during performances of live and recorded music.

If the noise limiting device breaks down the Council's Environmental Health Service must be informed as soon as reasonably practicable and in any event within 24 hours of the device breaking down. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. No performances of live and recorded music shall proceed if the noise limiting device is not in proper working order.

3. all doors and windows shall be kept shut during regulated entertainment.

4. all doors and windows shall be maintained in good order and where appropriate acoustically sealed to minimize noise breakout.

5. noise emanating from the premises must not be heard above background levels 1 metre from the facade of the nearest residential property.

6. the performance of regulated entertainment will be limited to a maximum duration of three hours inclusive of any breaks.

7. the performance of regulated entertainment will be limited to two sessions per week.

8. the PLH shall nominate a senior member of staff as the person responsible for the management, supervision, compliance with licensing conditions and general control of regulated entertainment. This person will also be responsible for instructing performers on the restrictions and controls to be applied.

9. the PLH or nominated person shall carry out observations in the residential streets surrounding the public house on at least 30 minute intervals whilst live music, karaoke or DJ's playing recorded music is taking place to establish whether there is a noise breakout from the premises. These checks must be documented.

10. the PLH or nominated person shall ensure that suitable signage is positioned at exits to request the co-operation of patrons, in particular to make as little noise as possible when leaving the premises. Patrons will be asked not to stand around talking in the street outside the premises or any car park; and asked to leave the vicinity quickly and quietly.

11. the PLH or nominated person shall be available at all times during regulated entertainment and who is responsible for cooperating and liaising with any relevant responsible authority. A contact telephone number will be made available to local residents to contact the nominated person.

- the following conditions would be removed from the current licence as they have been replaced by the above

Conditions B1 - B5 of Annex 2B (Conditions agreed with the Environmental Health Authority)

5. **Exempt Business**

There were no items of exempt business.

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Licensing Sub Committee

Tuesday 9 May 2017

PRESENT:

Councillor Dr Mahony, in the Chair.
Councillor Rennie, Vice Chair.
Councillors Cook (4th member) and Parker-Delaz-Ajete.

Also in attendance: Ann Gillbanks (Senior Lawyer), Marie Price (Licensing Officer), Will Tomkins (Environmental Health Officer) and Helen Rickman (Democratic Support Officer).

The meeting started at 10.00 am and finished at 12.10 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 Dr Mahony was appointed as Chair and Councillor Rennie was appointed as Vice Chair.

7. **Declarations of Interest**

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

8. **Chair's Urgent Business**

There were no items of Chair's Urgent Business.

9. **Application for Grant of Premises Licence - Ocean Grill, 135 Hoe Road, Plymouth, PL1 3DE**

The committee:

- (a) considered report from the Office of the Director for Public Health;
- (b) heard from the applicant and the applicant's representative (summarised as follows):
 - the application is for the grant of a premises licence to the Ocean Grill café bar/restaurant venue, for entertainment and sale of alcohol with 2 pre-booked private functions a week closing at 02:00, the rest of the time the premises would close at Midnight as usual;
 - the premises is to operate on three levels containing 5 rooms 2 of which were to be used to hold functions;

- the applicant considered the main concerns of noise would be addressed by entertainment/private functions using the function room or gallery only where noise would be contained by closed windows and the stone wall structure;
 - the premises would be operated as a food led café bar and it was never intended to operate as a night club; the application is to extend the business and to improve the premises and provide private functions in 2 of the rooms;
 - have agreed conditions with Environmental Health and Police Officers and have proposed conditions in the applicants' operating schedule which is considered will address all of the concerns expressed by the residents in relation to the control of noise from the premises.
- c. considered the representations (written and presented at committee) from the Responsible Authorities and the other parties which are summarised under the following licensing objectives:

Prevention of public nuisance

Environmental Health officer:

- the venue has traded as El Café since 2013 with a premises licence allowing regulated entertainment of live music up to 23:00 only indoors and recorded music outside up to Midnight. Three incidents of noise complaints, one in 2015 and two in 2016 where no formal action was taken but monitoring continuing;
- two applications were originally submitted for same site and it was difficult to establish what type of premises was to operate in the extended business;
- the application included regulated entertainment of recorded music between 11:00 to 01:30;
- the plan of the licensed area includes some outside space where disturbance may be created by patrons. Environmental Health concerns the site may cause noise problems if operated 7 days a week with music until 01:30 with concern it would trade as a nightclub;
- the inclusion of a function room where a higher volume of patrons are likely to leave the establishment at the same time may create disturbance;
- there are also operational activities carried out within the open hours between 11:00 & 02:00 that may cause disturbance – therefore conditions recommended;
- have subsequently met with the applicant's representative and agreed

conditions to control the noise;

- had further discussions with the applicant and their representative at the committee to agree final set of conditions

Police officer:

- found the application confusing as to whether it was a café, bar or nightclub;
- had a meeting with the applicant and Licensing and Environmental officer to confirm use of premises and agreed conditions based upon the venue being operated as a café bar/bistro restaurant with the ability to cater for special events;
- had further discussions with the applicant and their representative at the committee meeting to agreed final set of conditions;
- believed the conditions proposed are necessary and appropriate conditions designed to ensure that the premises operate in an efficient manner within the confines of the Licensing Act 2003;

- d. considered written and oral representations from other parties which are summarised under the following objectives:

Prevention of Crime and disorder

- the granting of the licence is likely to increase drunk and disorderly behaviour, noise, broken glass;
- late night drinking will lead to more crime and disorder West Hoe becoming known for its drinking, drugs etc., cars vandalised houses broken in to feed drugs;

The Committee considered these representations relevant but there are also other establishments in the area and no evidence was presented linking this premises to the behaviour described. The Committee also considered that the conditions put forward by the applicant and those agreed with the Responsible Authorities should alleviate any problem;

Public Safety

- serving of drink until the small hours of the morning in a venue situated on a very steep foreshore is potentially fraught with danger and a definite nuisance for residents;

The Committee considered this was not relevant as there no evidence of the likelihood of this occurring;

Prevention of Public Nuisance

- concerned that the premises would trade as a nightclub and did not know there was an expectation that it would be a café and food led operation;
- function rooms are being extended and plans show opening large doors so concerns are that these doors will be left open when the weather is warm allowing noise to escape;
- disappointed that the applicant had not consulted residents as a lot of residents were also patrons of the establishment;
- residents of the Hoe are aware of events that are held on the Hoe but these finish at 23:30 so are concerned that granting this licence will set a precedent for late night establishments in what is a residential area;
- concerns for noise pollution as noise travels easily across the open water especially on still nights, noise has generally been controlled from this venue but has been heard on two occasions;
- residents on the Hoe have already experienced noise disturbance from these premises. Granting this licence is very likely to make this even worse;
- residents are already frequently disturbed at night by people under the influence of alcohol;
- possibility for more pedestrians and motor traffic from the premises and with the late night opening hours revellers will have more time to consume alcohol causing them to be louder, to “slam and toot” departures from parking outside residents’ premises;

The Committee consider these representations relevant but with the explanation provided on the lay out of the premises and the conditions agreed between the applicant and the Responsible Authorities agree that the conditions should alleviate these concerns

Protection of Children from Harm

- no representations under this heading

Representations not linked to the licensing objectives

- the area of Hoe and West Hoe is mainly a residential area for over 100 years. The area is known worldwide and is a place that visitors from this county and abroad travel to see. This business is not considering the residential and family nature of the area;

- parking is a problem for residents especially in holiday periods as in the small area from the Dome to the Waterfront there will be five restaurants, four of which only have on street parking;

These do not relate to the licensing objectives so the Committee have not considered them when making their decision.

In response to Members questions the following information was provided about the premises:

- the applicant's representative explained that the existing roof terrace was being replaced with a new permanent pavilion. Adjacent to that on the derelict land, a new two story building was being built. At the same level as the existing tent was to be a new large pavilion. There was provision for a roof terrace at pavement level on the new large pavilion. Confirmed that although planning application included French doors in the pavilion, these had been replaced with sealed windows and one access door so noise would be contained;
- all built accommodation was to be fully enclosed;
- the seated capacity of the Gallery was a maximum of 60;
- the smaller pavilion would be retained with the café, the larger pavilion for private function hire with maximum capacity between 60 or 80;

The Committee have considered all of the representations presented and have noted concerns that the residents have expressed with regard to noise and noise travel from open areas. Members consider this is relevant and will therefore impose a further additional condition to address this concern.

The committee consider that this additional condition, in addition to the conditions agreed between the applicant and the Responsible Authorities are necessary and appropriate conditions to address the licensing objectives under the Licensing Act 2003 and will provide the controls required for the operation of these premises and have therefore **AGREED TO GRANT** the application subject to:

- A. the mandatory conditions within the Licensing Act 2003 and;
- B. the conditions contained in the applicant's operating schedule and;
- C. the conditions agreed with the Environmental Health and Police officers and;
- D. the following additional condition:

- “All outside areas will be closed and cleared of customers by 23:30 hours. Adequate notices will be displayed to inform patrons of this requirement. If patrons are to be allowed to use the outside area for smoking after 23:30 hours then the following controls will be in place:
 - (i) the area shall be adequately monitored to ensure that patrons do not cause a nuisance;
 - (ii) patrons shall not be allowed to take drinks to the smoking area;
 - (iii) the area shall be provided with suitable ashtrays/bins;
 - (iv) the area shall be regularly swept to remove cigarette ends”;
- (conditions C and D set out in full in annex I to this decision)

10. **Exempt Business**

Agreed that 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 they involve the likely disclosure of exempt information as defined in paragraphs 1 and 3 of Part 1 Schedule 12a of the Act, as amended by the Freedom of Information Act 2000.

11. **Application for Grant of Premises Licence - Ocean Grill, 135 Hoe Road, Plymouth, PL1 3DE (EI&E3)**

Please refer to minute 9 above.

OCEAN GRILL – APPENDIX ONE CONDITONS:**Environmental Health Conditions**

1. The premises will cease trading at midnight unless there is a pre-booked private function when the premises may remain open until 02:00 hours in the function room or Gallery only. Private functions using the function room or Gallery or both are limited to twice per week.
2. Regulated entertainment will be controlled to a level that ensures it is not audible at the façade of nearby residential properties. The Premises Licence Holder or nominated person will assess the noise impact on neighbouring premises at the start of regulated entertainment and periodically throughout regular entertainment and take action to reduce noise levels if it can be heard at the façade of residential properties. A record of the observations made shall be kept in a log for that purpose, such a log shall be completed immediately after the observation detailing the time, location and duration of the observation, the level of noise break out and any action taken to reduce noise breakout.
3. Adequate notices will be displayed to inform patrons to minimise noise when using outside areas, and the area shall be adequately monitored to ensure that patrons do not cause a nuisance.
4. When hosting private functions where a higher volume of person are likely to leave the establishment at the same time the Premises Licence Holder or nominated person shall ensure that exits are manned at closing time to ensure that patrons leave the area quickly and as quietly as possible
5. The handling of beer kegs, bottles and other similar items will not take place after 22:00 hours, including the discarding of empty bottles, outside buildings.
6. All regulated entertainment will only be carried out in enclosed areas as identified on the plan attached to the licence.

General

1. All staff shall be suitably trained for their job function in the operating standards for the premises. The training shall be under constant review.
2. All staff will be fully trained to perform their role. They will also be trained in the contents of the premises licence including times of operation, licensable activities and all conditions.
3. The training will be recorded in documentary form that will be available for Inspection on at the time of a request by a member of any relevant authority. The records will be retained for at least 12months.
4. The premises shall primarily operate as a cafe and food led operation.

Prevention of Crime and Disorder

1. An incident book shall be maintained to record any activity of a violent, criminal or anti social nature. The record will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident.
2. The incident book will be available for inspection at the time of request by a member of any relevant authority. The records will be retained for at least 12 months.
3. All staff shall be suitably trained in the operating procedures for refusing service to any person who is drunk or is under age or appears to be under age.
4. No customers carrying open or sealed bottles cans or other receptacles containing alcoholic liquor shall be admitted to the premises at any time that the premises are open to the public.
5. No Bottles or glasses will be taken from the premises by customers
6. The Licence holder and Designated Premises Supervisor will ensure that any outside area included in the licence will be controlled in a safe and effective manner to the same standard operated within the premises building and will pay special attention to the impact that the use of the outside area has on the surrounding community.

CCTV

1. The Premises Licence Holder will ensure that a CCTV system which is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document regarding installation of CCTV.
2. The CCTV will cover all areas of the premises to which the public have access including any outside areas
3. Images will be retained for a minimum of 31 days.
4. The system will be capable of downloading images to a recognizable viewable format.
5. At all times the premises are open for business a member of staff will be present who is capable of operating the system and downloading images at the request of police or a member of a responsible authority.
6. The CCTV system will be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises.

CONDITION IMPOSED BY THE COMMITTEE:

All outside areas will be closed and cleared of customers by 23:30 hours. Adequate notices will be displayed to inform patrons of this requirement. If patrons are to be allowed to use the outside area for smoking after 23:30 hours then the following controls will be in place:

- (i) The area shall be adequately monitored to ensure that patrons do not cause a nuisance
- (ii) Patrons shall not be allowed to take drinks to the smoking area
- (iii) The area shall be provided with suitable ashtrays/bins
- (iv) The area shall be regularly swept to remove cigarette ends

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Licensing Sub Committee

Tuesday 30 May 2017

PRESENT:

Councillor Dr Mahony, in the Chair.
Councillor Churchill, Vice Chair.
Councillors Parker-Delaz-Ajete and Singh.

Apologies for absence: Councillor Rennie.

Also in attendance: Ann Gillbanks (Senior Lawyer), Fred Prout (Senior Licensing Officer) and Helen Wright (Democratic Adviser).

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

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

12. Appointment of Chair and Vice-Chair

Agreed that Councillor Dr Mahony is appointed Chair for this particular meeting and Councillor Churchill 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.

(Councillor Parker Delaz-Ajete (Fourth Member) left the room)

14. Chair's Urgent Business

There were no items of Chair's urgent business.

15. Application for the Variation of Premises Licence - Bar Rakuda, 10+11 Quay Road, Barbican, Plymouth, PL1 2JZ

The Committee -

- (a) considered the report from the Office of the Director for Public Health;
- (b) heard from the applicant that -
 - the application was to extend the permitted hours on a Sunday for the sale of alcohol, late night refreshments, live music, recorded music from 00:00 hours to 02:00 hours to

bring the licensed hours into line with the licensed hours already in operation at the premises for the rest of the week and in line with the rest of the premises in the surrounding areas;

- the extension was mainly to cover the summer months to cater for the tourist trade, as during this time, the premises supplied food later into the light evenings;
- (c) in response to representations raised by other parties and questions from Committee Members, the applicant explained that -

- he worked closely with the Council's Environmental Health officers to deal with concerns about the volume of music played in the outside area; in consultation with Environmental Health officers he had installed noise limiters on his music equipment and had repositioned the speakers approximately three months ago to point more into the bar area to limit noise travel; he had not been contacted by Environmental Health officers with details of any other problems;
- the music in the outside area of the premises finished at 23:00 hours; the variation would be indoors only between 00:00 hours and 02:00 hours on a Sunday, to conform with the licensed hours already in place for the rest of the week;
- his bar was not the only one in that block that had live music and neighbouring premises held live music events outside which were loud;
- he had been a licence holder for 35 years and had always worked with the authorities during that time;
- he had managers and security staff controlling noise and music was not played to the whole of the outside area but was directed to one side;
- other venues in the same block also had music and noise travels, it may be that performers could be seen in his premises as they were on a small raised stage but other venues further along held live music outside and had no stage, so it may be mistakenly assumed that the music was from his bar;
- noise can be generated from people walking past the bar as the main pathway was outside but not all were coming from this bar;

- (d) written and oral representations under the Licensing Objectives from other parties -

- Prevention of Crime and Disorder -
 - anti-social behaviour was rife in this area and it would become worse if this and other bars were allowed to extend their hours;
 - if granted, other premises would likely to follow suit; this would be an inevitable increase in the number of drunken, noisy people in the streets, leading to more anti-social behaviour; an even greater police presence than was now the case would be required and for a long time especially on Fridays and Saturdays;
- the Committee considered these points relevant to the Licensing Objectives but had not heard evidence linking the behaviour to this premises licence;
- Public Safety -
 - residents and members of the public would be affected by the increase in noisy, drunken people and would be more likely to be victims of anti-social behaviour and petty crime;
- the Committee considered this point relevant to the Licensing Objectives but had not heard evidence linking this behaviour to the premises licence;
- Public Nuisance -
 - the other party attending Committee explained that she lived directly opposite and could not hear her TV with doors and windows open for the noise and could hear every word of music being played; she did not object to the music itself only the volume;
 - she could see the artists singing outside this venue and could hear music between 23:00 and 23:30 hours; she had not seen artists from other neighbouring bars; the volume from inside the premises after this time was still loud;
 - she had not noticed a difference in the noise in the last three months and had emailed the Council in 2010 to make a complaint about general noise and things had not changed at all; if noise limiters were in place they had made no difference;
- written representations from other parties under Public

Nuisance -

- live music and recorded music already caused a public nuisance and it could only get worse with extended hours;
- residents in the Barbican were already disturbed by music from Bar Rakuda and other venues until around midnight; an extension of this disturbance until 02:00 02.30am would be unacceptable; the Barbican is not Union Street it was an historic area with a lot of heritage and live music and drinking until the early hours lead to noisy people in the streets and more litter, not consistent with a residential, family-friendly area;
- Bar Rakuda's live and recorded music already caused considerable public nuisance in this mixed commercial/residential environment; at present their music generally did not finish until about 23:30; their music was also frequently accompanied by audience singing/shouting, further exacerbating the disturbance; for example, my lounge and bedroom windows were about 200m away from the bar, across the harbour and I regularly record music sound levels of 55 – 60dB (on uncalibrated equipment) at this distance; in consequence, it is impossible to watch television in the summer without closing all the windows and sleep before 23:30 was substantially disturbed; grant of this licence would render sleep impossible before 2:00am (02:00) contrary to the rights of local residents, including ourselves;

- (e) the Committee considered these points relevant to the Licensing Objectives but not in relation to this particular case, as they had not heard evidence of noise from inside the premises causing a nuisance as the complaints were about the noise from the use of the outside area which was not the subject of this application for variation of extended hours for Sunday night; in the absence of representations by the Environmental Health officers, the Committee were not able to place any weight on the sound levels noted in this representation;

- Protection of Children from Harm -

- this was a mixed area with singles and families residing; if granted this licence would expose children to a poor night's sleep and anti-social behaviour; this was a significant problem and I could see it escalating out of control;

- given relative lateness of closure, prevent babies and children from sleeping where regular sleep disturbance was known to cause harm;
- extension of drinking and live music into the early hours is not consistent with providing a family-friendly environment.

The Committee considered –

- (f) these relevant to the Licensing Objectives but no evidence had been presented to attribute these problems with this premises licence;
- (g) all of these representations in the light of statutory guidance and the Council's Licensing Policy;
- (h) that the representations in the main were in respect of noise from the use of the outside area and considered that no direct evidence had been supplied to link these representations with this application; they also considered that the variation applied for would have no impact on the use of the outside area as licensable activities in this area finished at 23:00;
- (i) the lack of representations on Crime and Disorder from the Police and lack of representations on Public Nuisance from Environmental Health officers.

The Committee agreed to depart from its Licensing Policy in this instance, as it was satisfied that the applicant's current licence conditions were sufficient to control events so that they would not have a significant negative impact on the area in respect of this variation to hours on a Sunday and therefore agreed to grant the application.

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Licensing Sub Committee

Tuesday 4 July 2017

PRESENT:

Councillor Dr Mahony, in the Chair.
Councillor Rennie, Vice Chair.
Councillors Dreaan (fourth member) and Parker-Delaz-Ajete.

Also in attendance: Sharon Day (Lawyer), Marie Price (Licensing Officer) and Helen Rickman (Democratic Support Officer).

The meeting started at 10.05 am and finished at 12.50 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.

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

Agreed that Councillor Dr Mahony is appointed as Chair and Councillor Rennie 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.
(Councillor Dreaan left the meeting after this item)

18. **Chair's Urgent Business**

There were no items of Chair's Urgent Business.

19. **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.

20. **Expedited Premises Licence Review - Clarence, 31 Clarence Place, Stonehouse, Plymouth PL1 3JP**

The committee considered the application made by the Police under section 53A of the Licensing Act 2003 and heard from the Premises Licence Holder and the General Manager of the premises.

The committee agreed that it was necessary to take interim steps pending the outcome of the final review hearing and as a result the following conditions were added to the licence:

- I. in the absence of the General Manager, Mr Wills, a Personal Licence Holder

must be present on the premises during opening hours and must actively manage the premises in Mr Wills' absence;

2. the Premises Licence Holder must take steps to train his staff in the Licensing Act 2003 and dealing with disorderly behaviour. Evidence of the steps taken must be provided to the committee at the final review hearing on a date to be set.

Licensing Sub Committee

Tuesday 18 July 2017

PRESENT:

Councillor Rennie, in the Chair.
Councillor Hendy, Vice Chair.
Councillor Cook.

Apology for absence: Councillor Dr Mahony.

Also in attendance: Ann Gillbanks (Senior Lawyer), Fred Prout (Senior Licensing Officer) and Helen Wright (Democratic Adviser).

The meeting started at 10 am and finished at 11.31 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.

21. Appointment of Chair and Vice-Chair

Councillor Rennie was appointed as Chair and Councillor Hendy was appointed as Vice Chair for this particular meeting.

22. Declarations of Interest

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

23. Chair's Urgent Business

There were no items of Chair's urgent business.

24. Mr Michael Currie, Kernow Mobile Bars, 4 Gear Drive, Quintrell Downs, Newquay, Cornwall - Temporary Events Notice

The Committee –

- (a) considered the report from the Office of the Director of Public Health;
- (b) heard from the Police that -
 - there had been an increase in anti-social behaviour by street drinkers on the green space in the area in the last four to five weeks;
 - there was a lack of engagement with the Police over the

application;

- the proposed control of access to the area could cause anti-social confrontational behaviour and also issues of Police support of the event;
 - concerns over safeguarding issues for people in the area and dispersal at the end of the event;
 - reported that the Designated Public Place order was in place;
 - concerns over the control of alcohol sales and consumption at the event;
 - concerned that the event had been advertised on social media which could attract people from other areas of the city, thereby exceeding the occupancy numbers applied for increasing the potential for anti-social behaviour;
- (c) the Police therefore contended that the issue of the Temporary Event Notice would have a negative impact on the Licensing objectives of the Prevention of Crime and Disorder, the Prevention of Public Nuisance and Public Safety;
- (d) heard from the applicant's representative that -
- the event was fully insured and the activities and services were being provided by third party companies with the relevant accreditation and insurance; a licensed security firm would also be present;
 - the community board had an extensive track record in successfully organising family community events; they were a well-regarded, professional company funded by Plymouth Community Homes and held an Investor in People accreditation;
 - Devonport had suffered too long from a poor image and refusal to grant a licence was likely to continue to reinforce the negative stereotypes of the area, despite millions being spent on regeneration;
 - this year the event held extra meaning as it was 30 years since Pembroke Street Residents began campaigning for change on their estate and were about to celebrate not just their own success but the regeneration of the whole of Devonport;
 - this event was a grass roots community project funded by the National Lottery 'Celebrate' fund; it would include live music between 7pm until 10pm; there would be food available from

Cornish Pod; a bouncy castle and face painters would be available for children from 6.45pm until 8.45pm;

- other associated activities over the weekend included the launch of a specially commissioned film charting the history of the organisation and its impact on the wider regeneration of Devonport along with the unveiling of a community designed and produced public mosaic artwork; a lunchtime event was also being hosted for residents, partner organisations and councillors;
- there had never been a single issue reported to the Police about any of the activities and felt that a licensed bar provided additional control that a 'bring your own alcohol' policy did not offer;
- if concerns remained about potential problems the proposed following additional measures would be funded at own cost -
 - securing the perimeter of the site to ensure access could only be gained from a security monitored entrance point;
 - increasing the licensed security presence to monitor behaviour;
 - restricting the sale of alcohol to 6.30pm until 10pm only;

(e) considered -

- that the representations made by the Police were relevant to the licensing objective of the Prevention of Crime and Disorder;
- whilst taking into consideration the proposed controls for the Temporary Events Notice, believed that the application had the potential to increase the likelihood of crime and disorder and had particular concerns about the safe control of the access to the area and the safeguarding of the residents.

The Committee having regard to the objections provided by the Police and what had been said by all parties the Committee considered that the granting of a Temporary Events Licence for the sale of alcohol would undermine the licensing objectives of Crime and Disorder so it is agreed to give a counter notice in respect of the application.

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Licensing Sub Committee

Tuesday 1 August 2017

PRESENT:

Councillor Dr Mahony, in the Chair.
Councillor Rennie, Vice Chair.
Councillors Churchill and Parker-Delaz-Ajete.

Also in attendance: Ann Gillbanks (Senior Lawyer), Rachel Hind (Licensing Service Manager), Fred Prout (Senior Licensing Officer) and Helen Wright (Democratic Adviser).

The meeting started at 11.00 am and finished at 12.55 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.

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

Agreed that Councillor Mahony was appointed as Chair and Councillor Rennie was appointed as Vice Chair for this particular meeting.

26. **Declarations of Interest**

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

(Councillor Churchill (fourth member) left the meeting).

27. **Chair's Urgent Business**

There were no items of Chair's urgent business.

28. **Review of Premises Licence: Plymstock Inn, 88 Church Road, Plymstock**

The Committee –

- (a) considered the report from the Director of Public Health;
- (b) heard from the Environmental Health officer and considered the letter from Environmental Health (at Appendix 2 of the report) detailing that -
 - a change of ownership had taken place at the premises and as a result Environmental Health no longer considered that the review hearing was necessary now that the previous

Premises Licence Holder had left the premises;

- the new management had a positive attitude to work with the local authority and had confirmed that they would adhere to the conditions added by the committee on 4 April 2017;
- therefore the premises should no longer negatively impact on the Prevention of Public Nuisance licensing objective.

The Committee agreed that after taking into consideration the submissions heard it had no further concerns so agreed that no action was needed to be taken in respect of this review.

29. **Review of Premises Licence: The Clarence, 31 Clarence Place, Stonehouse, Plymouth**

The Committee –

- (a) considered the report from the Director of Public Health;
- (b) heard representations from the Police under the licensing objective of Prevention of Crime and Disorder as follows -
 - a serious crime took place on 2 July 2017; a man died following a verbal disagreement inside the premises and a subsequent assault took place in the porch of the premises;
 - indications were that the man died as a result of the assault;
 - since the expedited review held on 4 July 2017 the offender had been charged with manslaughter;
 - further investigations had highlighted breaches of the premises licence and a lack of adequate management of the premises and the conditions attached to the Premises Licence;
 - due to the low number of previous incidents the Police believed the best approach would be to update the Premises Licence;
 - the proposed new conditions which had been agreed by the Premises Licence Holder at a meeting on 24 July 2017 were intended to replace the ambiguous conditions on the current licence with conditions that were unequivocal, and ensured that the licensing objectives were complied with;
 - imposing these conditions minimised the reoccurrence of further incidents relating to serious crime due to the lack of management control of the premises;

- had put the Premises Licence Holder in touch with the representative from Best Bar None to help with training;
 - that since the meeting to agree the new conditions the Premises Licence Holder had been operating to the said proposed conditions;
 - see attached list of conditions (annexed to these minutes as Appendix I);
- (c) Members took into consideration these representations which were considered relevant to the licensing objective of the Prevention of Crime and Disorder;
- (d) heard representations from Environmental Health under the licensing objective of Public Nuisance as follows -
- the current Premises Licence Holder took over the running of the premises on 13 January 2017;
 - on 6 February 2017, Environmental Health received its first complaint of music noise from the premises and noise from patrons drinking outside the premises and being intimidating;
 - details of the noise complaints were provided along with details of the contact that Environmental Health had with the Premises Licence Holder to try and resolve the issues;
 - a noise abatement notice was served on the premises on 24 February 2017 however, Environmental Health continued to receive complaints about the noise from local residents;
 - officers visited the complainant's house and witnessed noise from music and from patrons outside the premises which would have disturbed anyone trying to sleep in the bedroom; the officers on this occasion spoke to the Manager, Mr Wills who they reported to be argumentative when asked to control the noise of the music and his patrons;
 - that the premises adjoined the residential property and that it would not be structurally possible to fit sound proofing and as such fitting a noise limiter would not be effective in controlling noise and would not control live music;
 - in light of the ongoing complaints that had been received and despite an abatement notice having been served, Environmental Health was of the view that the Premises Licence Holder was either unable or unwilling to control the

noise levels and therefore recommended that regulated entertainment was removed from the licence in accordance with Section 177A(4) of the Licensing Act 2003;

- (e) Members considered that the representations by the Environmental Health officer were relevant under the licensing objective of Prevention of Public Nuisance and that they showed that there had been a lack of engagement with the authorities and the residents;
- (f) based upon what the Committee had heard it was clear that there was an issue with control of noise which was beyond the control of the Premises Licence Holder that the removal of the juke box was the only way forward to control the noise so agreed to exclude the licensable activity and considered it appropriate to include a condition to say -

‘no live or recorded music may take place on the premises and the exemption provisions within Section 177A of the Licensing Act 2003, relating to live and recorded music no longer apply to this Premises Licence’:

- (g) heard representations from the Interested Party under the licensing objective of Public Nuisance as follows -
 - prior to the current Premises Licence Holder taking over the premises had been a thriving restaurant and during that time there had been no disturbances from noise or anti-social behaviour;
 - on numerous occasions in the last seven months it had been necessary for this resident to raise issues with the Police and Environmental Health; the issues reportedly included fights, vandalism to the pub, noise, patrons throwing rubbish, cigarette butts and vomiting in their garden;
 - the residents had found that whilst the Premises Licence Holder and his staff were polite to start with when asked to control the volume of their music, as time had gone on the attitude from the staff had become more and more irritated and they had suffered from intimidation and verbal abuse from patrons and they no longer felt it was safe to enter the pub;
 - the noise levels from the premises meant that they were unable to open the windows in their property which had made sleeping conditions in the hot weather very uncomfortable; the noise levels from the premises had meant that their children were frequently unable to get to

sleep or were woken up in the early hours of the morning; this had had an adverse effect on their sleep patterns and education;

- the written representation contained a detailed diary; in summary the problems outlined were -
 - noise from live and recorded music within the premises that could be heard in their house; this could range from the songs being loud enough to be identified to thumping base beats; despite requests to staff to turn the music down, noise could still be heard; when the music was turned down then the volume gradually increased again and remained a problem;
 - patrons congregated outside the premises and were noisy (in some cases in large groups); in addition noise was created by people shouting and being drunk when they left the premises;
 - when complaining about noise the resident had suffered verbal abuse from patrons and had felt that they atmosphere was intimidating;
 - the pub was on the cusp of a home zone where peaceful enjoyment would be expected;
- Members considered that the representations by the Interested Party were relevant under the licensing objective of Prevention of Public Nuisance and that they showed that there had been a lack of engagement with the authorities and the residents;

(h) heard representations from the Premises Licence Holder as follows -

- he worked with the Police and agreed new conditions for the control of the premises;
- had contacted the Best Bar None contact as requested;
- had taken action to stop patrons congregating at the front of the premises;
- had implemented the new smoking area to the side of the premises away from residential properties;
- had installed the CCTV as required in the new conditions agreed with the Police;

- had considered fitting sound proofing between the properties but that this would not be effective;
 - considered that the neighbour would not accept any pub in the area regardless of what he did;
 - the windows were closed at all times and believed the removal of the juke box would be the only way to solve the noise from the music problem;
 - no longer held live music entertainment at the premises;
- (i) after considering all of the representations, Committee Members were concerned to see that sufficient controls were in place to control the Prevention of Crime and Disorder following the incident which prompted the review that took place on 4 July 2017;
- (j) in addition the Committee had heard relevant representations about noise from music and patrons congregating outside the premises since the Premises Licence Holder took over the licence in January 2017;
- (k) the Committee had noted that the Premises Licence Holder was now working with the Police and had agreed conditions which addressed the Police's original and ongoing concerns about the management of the premises;
- (l) the Committee considered that the structure of the premises would not allow for satisfactory steps to be taken to provide adequate sound proofing so considered it appropriate to remove the licensable activity related to regulated entertainment of live and recorded music.

Therefore the Committee agreed to remove the conditions suggested by the Police and to impose the new conditions agreed by the Police with the Premises Licence Holder with one amendment to condition number 11 to change the wording 'reasonably practicable' to 'by the next working day' and also to impose an additional condition that –

No live or recorded music may take place on the premises and the exemption provisions within section 177A of the Licensing Act 2003 relating to live and recorded music no longer apply to this premises licence.

The Committee agreed that conditions imposed as interim steps at the hearing on 4 July 2017 were to stay in place until the 21 days for appeal had expired (or if appealed when the appeal was concluded) when conditions imposed today would be formally added to the licence.

New Conditions for The Clarence, 31 Clarence Place, Stonehouse, Plymouth, Devon PL1 3JP. Imposed at the Review Hearing dated 1 August 2017

Prevention of Crime and Disorder

1. All staff shall be fully trained to perform their role. They will also be trained in the contents of the premises licence including times of operation, licensable activities and all conditions.
2. Training shall be recorded in documentary form and those records will be available for inspection at the request at all reasonable times by an authorised officer from a relevant responsible authority. The records will be retained for at least 12 months.
3. An incident book shall be maintained to record any activity of a violent, criminal or anti-social nature. The record will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident. The incident book shall be available for inspection at all reasonable times by an authorised officer of the relevant responsible authority. The records will be retained for at least 12 months.
4. All staff shall be suitably trained in the operating procedures for refusing service to any person who is drunk or is under-age or appears to be under-age. Training shall be recorded in documentary form and those records will be available for inspection at the request at all reasonable times by an authorised officer from a relevant responsible authority. The records will be retained for at least 12 months.
5. The Premises Licence Holder will ensure that a CCTV system is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document (www.informationcommissioner.gov.uk) regarding installation of CCTV is provided at the premises.
6. The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.
7. The CCTV system shall cover all areas of the premises to which the public have access including any outside areas.
8. Images shall be retained for a minimum of 28 days.

9. The CCTV system shall be capable of downloading images to a recognizable viewable format.
10. The CCTV system shall be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises.
11. If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the Designated Premises Supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police by the next working day. This information shall be contemporaneously recorded in an incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.
12. The CCTV system covering any dedicated smoking area shall be fully operational and regularly monitored.
13. No customers carrying open or sealed bottles, cans or other receptacles containing alcoholic liquor shall be admitted to the premises at any time that the premises are open to the public.
14. No beverage purchased inside the premises may be consumed in the premises outside area.
15. The collection of glasses and bottles shall be undertaken at regular intervals to ensure there is no build-up of empties in and around the premises.
16. The Premises Licence Holder and/or Designated Premises Supervisor shall ensure that any outside area included in the licence will be controlled in a safe and effective manner and will pay special attention to the impact that the use of the outside area has on the surrounding community.
17. The Premises Licence Holder or nominated person shall have a written drugs policy detailing the actions to be undertaken to minimize the opportunity to use or supply illegal substances within the premises. This policy must be available to inspection on request by an authorised officer of a responsible authority at any reasonable time.
18. The Premises Licence Holder or nominated person shall ensure that a clearly visible notice is displayed advising those attending, that the Police will be informed if anyone is found in possession of controlled substances or weapons.
19. Suitable and sufficient conspicuous signage shall be erected and maintained at

the entrance to the premises advising patrons that causing any disturbance or disorder will result in admission being refused.

20. A designated, de-lineated and bordered smoking area will be allocated outside the premises.
21. The amount of patrons in this area will not exceed five (5) persons and shall be monitored at least every hour by a staff member.
22. Any outdoor areas to front the premises must not be used by customers or staff.
23. The Premises Licence Holder or nominated person shall ensure that suitable ash trays or similar vessels are available for smoking litter.
24. Staff must assist patrons by any means that enable them to leave the premises quickly and quietly and without delay.
25. At least two (2) members of staff will be on duty Friday and Saturday evenings if the capacity of the premises exceeds forty (40) from 20:00hrs until closing time.

Prevention of Public Nuisance

26. No live or recorded music may take place on the premises and the exemption provisions within section 177A of the Licensing Act 2003 relating to live and recorded music no longer apply to this premises licence.

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Licensing Sub Committee

Tuesday 12 September 2017

PRESENT:

Councillor Dr Mahony, in the Chair.
Councillor Morris, Vice Chair.
Councillors Carson (Fourth Member) and Parker Delaz-Ajete.

Also in attendance: Ann Gillbanks (Senior Lawyer), Fred Prout (Senior Licensing Officer) and Helen Wright (Democratic Adviser).

The meeting started at 10.05 am and finished at 3.25 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.

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

The Committee agreed to appoint Councillor Dr Mahony as Chair and Councillor Morris as Vice Chair for this particular meeting.

31. **Declarations of Interest**

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

(Councillor Carson (fourth member) left the meeting).

32. **Chair's Urgent Business**

There were no items of Chair's urgent business.

33. **Review of Premises Licence: Dog and Duck, 15 Mutley Plain, Plymouth**

The Committee -

- (a) considered the report from the Director of Public Health;
- (b) heard representations from the Police as follows -
 - Mr Kelland had been the licence holder and Designated Premises Supervisor at the premises since May 2013;
 - the premises fell within one of the five cumulative impact areas of the City;

there were 10 licensed premises including the Dog and Duck on Mutley Plain and a mixture of residential and commercial businesses; Mutley Plain was a main artery leading to the north and City Centre with heavy traffic using the dual carriageway, situated near the premises was a Sainsbury Local which had a busy customer base;

- over the last six months incidents of anti-social behaviour, drunkenness and violent crime had occurred both within the premises and also associated with the premises; a time line of incidents was provided covering a period between 1 December 2016 to 20 August 2017; each incident was not presented in detail to the Committee, as the Police Representatives considered it would not be helpful to do so but rather they were included to evidence the lack of management of the premises when taken into consideration with the detailed information contained in the CCTV footage, shown at the meeting demonstrated the lack of management at the premises; footage of incidents which took place on 16 April 2017, 26 May 2017 and 9 June 2017 were shown to Committee;
- there had been several incidents of disorder reported over the last six months involving a doorman employed by the Private Licence Holder; the reports were that this doorman was unhelpful, abusive and aggressive;
- three particular incidents were identified and CCTV footage shown as detailed below; the door supervisor had recently been convicted of a public order offence that took place at the premises on 26 May 2017;
- the Police had repeatedly experienced difficulty in retrieving CCTV footage from the premises; any footage obtained lacked the required definition and quality;
- there had been meetings with the Private Licence Holder where the concerns regarding the activities of this doorman had been raised with a view to the Private Licence Holder managing the problem;
- other businesses within the area were suffering, as a result of the operation of these premises and their intoxicated patrons;
- the operation of the premises was having a negative impact on the following licensing objectives -
 - Prevention of Crime and Disorder;
 - Prevention of Public Nuisance;

- evidence showed the concerns that the Police had about the management of the premises; the doorman was no more than a symptom, as he had been allowed to work in a way that showed a lack of management of his actions; despite meetings there had been lack of engagement by the Private Licence Holder to confirm any action taken to alleviate the impact of Crime and Disorder and Public Nuisance upon the premises and local community; it was therefore considered that revocation of the premises licence would be the only appropriate remedy;
- three incidents recorded on CCTV were viewed as detailed below –
 - 16 April 2017: incident took place whereby a Police Officer witnessed a fight outside premises which had been dealt with by the doorman; when the officer asked the doorman what happened, he became abusive and aggressive and made offensive hand gesture; officers passing the location had been flagged down by people as some kind of altercation, by the time officers attended people had dispersed;
 - 16 April 2017: this showed an escalation of the above situation; one person came back with a hammer and the incident spread into the road and showed the doorman leaving the premises and crossing the road and fighting outside of Domino's Pizza; Police had to spray a number of people to contain the situation and had to threaten the doorman, as he was inflaming the situation; conflicting views of whether the doorman was inflaming the incident or whether he was assisting the Police; the officer was responding to an alleged incident of glassing but no evidence of glassing was found in relation to this incident;
 - 26 May 2017: CCTV showed footage outside of the premises that were very busy; a male left the premises with his partner with a full glass in his hand; there was a scuffle on the edge of the camera shot; the doorman retrieved the glass; the doorman pursued them outside of Café Sol and he moved down to KFC about 50m away and the doorman engaged in some sort of physical activity in KFC; the doorman was seen to have the male in a 'choke hold' outside of KFC; two Police Officers attended and one arrested the female and the doorman held the male whilst the other officer placed him in handcuffs;
 - 9 June 2017: CCTV footage from the premises – looking into the premises from the entrance off of Mutley Plain; footage showed a male who was the subject of a five year ban on Plymouth Pub Watch; he was with two females;

one accompanying female clearly unhappy with male as seen by hand gesture and shuffling; no one intervened to prevent this escalating; another view of the premises showed an incident by the pool table where a female was arguing with the male (on the Pub Watch ban) and another female threw a glass at her causing a laceration of her right eyebrow; the banned male was seen trying to give first aid to his girlfriend; then CCTV footage showed the banned male snapping a pool cue and running out onto Mutley Plain; there was no CCTV footage of the next action but he threatened the female; the person who reported this incident to the Police was the banned male and not a member of staff from the premises;

(c) heard from the Premises Licence Holder and his solicitor as follows -

- he had been a publican for 25 years and a Designated Premises Supervisor for only the past few years but he had a hands on approach to management;
- he was fully conversant with the licensing objectives and was a founder member of the Pub Watch scheme and would send a substitute to any meetings he could not attend;
- had regularly engaged with Jock McIndoe of the Police Licensing Department and provided information leading to arrest of violent criminal behaviour;
- had attended meetings recently with the Police and had asked questions concerning the incidents;
- had more door supervisors than was required on Friday and Saturday and accepted that there were issues with the doorman identified by the Police during the process of this meeting; the doorman in question was no longer employed on the premises;
- he did not directly employ door staff as they were sent by an agency;
- regarding the comments of the increase in crime on the premises, commented that violent crime across the City had been reported to be up by 35.6% this was a trend and could not be attributed to the running of the public house;
- problems were dealt with by removing patrons as quickly as possible and calling the Police;
- a publican had no duty to disperse patrons on the public highway; the Police were unable to patrol on Mutley Plain;

- usual opening hours were 10am weekdays and 11am Sunday and generally close at 2am each evening;
 - employed one member of bar staff up to 7pm each night; two bar staff from 7pm until closing and on Friday and Saturday evenings employed one member of door staff and that all staff were trained in the prevention of crime and disorder;
 - had a radio link to the doorman in the Junction Pub who could attend the Dog and Duck to assist if necessary;
 - the Private Licence Holder had engaged with the licensing objectives and had followed procedures and removed offenders from the pub; Mutley Plain had various professions, trades and housing; the Dog and Duck clientele tended to be young and boisterous;
 - the Private Licence Holder had embarked on a refit and the doorman involved in the incidents presented was no longer employed; the Private Licence Holder would be willing to increase door staff and engage another Designated Premises Supervisor and was sure that he could engage with the Police to come up with an alternative solution;
- (d) in response to the CCTV footage shown by the Police made the following comments (and the Committee viewed the footage provided from inside the premises for the incident which occurred on 16 April 2017), as follows -
- 16 April 2017: footage showed two males in the pub becoming troublesome and the doorman removed them from the premises; one of the males punched the doorman and the doorman put one of the males on the floor; they squared up to him again and fight him; he goes back out of their way not to provoke the situation; the doorman was trying to protect the door to not allow the male back in;
 - the footage showed doorman asking for assistance from a passing Police van but it drove away ignoring the incident; the males disappear from view but because they see the Police disinterested they return, one with a hammer, one with a glass; the opinion of the Private Licence Holder was that because the initial approach to the Police resulted in no action it gave the males the impression that the Police were not interested so came back with a hammer and a bottle that resulted in the affray outside of Domino's Pizza; had the Police reacted when requested to the whole incident would not have happened; the footage showed two doormen, one from the Junction and one from the Dog and Duck;

- 9 June 2017: the person who was banned on the pub watch scheme, this person regularly changed his appearance so was not immediately recognised but when the Private Licence Holder did recognise him he was asked to leave;
- on this occasion he came into the pub and was served; a glassing event was rare; this occasion showed there was an altercation between two females where a glass was thrown which caused a cut on an eyebrow of one female; she was taken into the back office to administer first aid; the Private Licence Holder radioed the incident and showed the CCTV to the Police Officer who attended; the officer said there was nothing he could have done;
- 26 May 2017: incident of affray and common assault; the doorman radioed the Police regarding the incident; the doorman was on duty; male and female initially calm and normal but they had a row and started getting vocal, doorman asked them to leave; when they got outside of the premises they started trying to assault the doorman both spitting at him, female carried riot gas canister which she tried to deploy at the doorman, the male had a glass in his hand; not the policy to allow glasses to be taken outside; the doorman wrestled with the male with the glass, gets the glass and through it at the ground, so it could not be used as a weapon.

The Committee had considered the representations from both parties and the difference of opinion on interpretation of events shown in the CCTV footage of the three incidents.

With regard to the management of the door staff, the Committee noted that in the incident of 16 April 2017 it showed the doorman joining into the incident where Police were involved outside of Domino's and that he was joined by the doorman from the Junction. Members were concerned that this left the premises exposed as being without security. The arrangement for assistance to be provided by calling upon the door staff from the Junction to assist also concerned Members as this was evidence of insufficient management of door staff working alone.

The Committee –

- (e) also noted the actions of the doorman on 26 May 2017, in leaving the premises to retrieve the glass from the male that removed it from the premises; however they were concerned that he then followed the male into KFC and assaulted him; it was noted that the doorman was convicted for assault and had his SIA Licence suspended; this action was aggressive but in relation to these proceedings, was also in

breach of the licensing objectives by leaving the premises unprotected;

- (f) also noted the CCTV footage of the incident on 9 June 107 which showed that there was an escalation of behaviour between a number of individuals taking place in the bar area and the bar person made no attempt to intervene to prevent this; this was evidence of a lack of management of the premises to take action to avoid this escalating;
- (g) was concerned that this incident occurred at 6.45pm when only one member of staff was present and before the door staff were on duty;
- (h) was also concerned that the incidents occurred at these premises were having an impact on the wider environment of Mutley Plain and did not consider that the removal of the doorman who was involved in these incidents presented would totally resolve the issues at the premises.

As a result, the Committee agreed that it is appropriate in relation to the promotion of the licensing objective of crime and disorder and to address the problems with the management of the premises to impose the following conditions –

- (1) the Private Licence Holder shall provide door supervision on the following basis -
 - one door supervisor between the hours of 18:00 hours to 20:00 hours and then two door supervisors between the hours of 20:00 hours until closing time on Friday and Saturday evenings;
 - one door supervisor between the hours of 18:00 hours until closing time for the rest of the week;
- (2) the Private Licence Holder shall provide training on the following basis -
 - all staff to be fully trained for their job functions in the operating standards required under the Licensing Act 2003 to include dealing with disorderly behaviour and evidence training to be recorded in documentary format and must be provided to the Council's Licensing Officers as soon as possible and not later than three months from now;
 - training will be repeated at least every six months thereafter and will be recorded in documentary format that will be kept at the premises and be available for inspection at the time of a request by a member of any relevant authority; the records will be retained for at least 12 months.

Licensing Sub Committee

Tuesday 10 October 2017

PRESENT:

Councillor Dr Mahony, in the Chair.
Councillor Rennie, Vice Chair.
Councillors Sam Davey and Loveridge (fourth member).

Apologies for absence: Councillor Singh.

Also in attendance: Catherine Fox (Lawyer), Marie Price (Licensing officer), Helen Rickman (Democratic Advisor) and Jamie Sheldon (observing Democratic Advisor).

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.

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

The Committee agreed to appoint Councillor Dr Mahony as Chair and Councillor Rennie as Vice Chair for this particular meeting.

35. **Declarations of Interest**

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

36. **Chair's Urgent Business**

There were no items of Chair's urgent business.

37. **Provisional Statement Application - Hotel 1620 (Former Site of Former Quality Hotel), Cliff Road, Plymouth, PL1 3BE.**

The Committee

- (a) considered the report from the Director of Public Health;
- (b) heard from the applicant as follows:
 - it seeks a provisional statement in respect of Hotel 1620 in respect of the following licensable activities:
 1. Late Night Refreshment (Indoors and Outdoors) Monday to Sunday 11pm to 05:00am
 2. Supply of alcohol for consumption ON the premises Monday to

Saturday 00:00 to 11.59pm

3. Hours premises are open to the public: Monday to Sunday 00:00 to 11:59pm

- the applicant has given thought to the potential impact of the grant of this application on the four licensing objectives and having regard to the locality consider that conditions taken from Plymouth City Council's pool of licensing conditions version 8.4 are appropriate, proportionate and necessary to avoid any negative impact of those licensing objectives. It urged the committee not to impose any additional conditions should it grant the application;
- the applicant stated that the hotel is to be a high-end boutique establishment with 80 beds and offering fine dining, that is open to guests and local residents alike. Also on the site will be a block of 80 residential units;
- the hotel will be open 24 hours a day. Its business model is for it to provide local residents with a high quality dining experience. The design of the buildings exploits the wonderful view from both inside and outside. Its business model relies on its appeal to businesses and local residents as well as guests from further afield as somewhere to come for weekends away and special occasions and celebrations. It will rely on repeat business. It would not be in their interests to allow issues with noise nuisance or antisocial behaviour to arise as it will rely on its reputation to ensure repeat business;
- the hotel will have 2 distinct eating areas – (1) a formal dining area on the 11th and top floor in a panoramic restaurant with access on to the outside terrace that caters for lunches and dinners; and (2) a less formal brasserie area on the ground floor with access onto the ground floor terrace which will provide a more relaxed space and catering for breakfasts and lunches. Both the terraces will provide spaces for smokers and also for pre and post dinner drinks to enjoy the far reaching views, and at night the stars;
- the applicant responded to the representations against the sale of alcohol 24 hours a day 7 days a week. The hotel will be entitled to serve its residential guests only from 11pm to 5am in any event. It is seeking by virtue of this application for a late night refreshment licence, to avoid an unfair distinction between hotel guests and locals seeking to use the restaurant. It does not think they should be in the position of turning away locals from the restaurant and/or terraces when there are hotel guests enjoying the same;
- the brasserie downstairs is more likely the venue that non guests without a booking will graduate to. They will have a higher ratio staff to guests than say a bar or club and will be able to assess and exclude anyone that is not there for genuine reasons such as enjoying food and the view;

- the applicant understands the concerns of the residents and interested parties' centres on the potential for noise nuisance arising from use of these areas. The issue of noise and how to prevent and abate the same was considered at the Planning stage. The buildings (the hotel and the apartment block) themselves are tall and will block the majority of noise emanating from the lower terrace. The upper terrace is 35 metres high and noise will be dissipated by the height. The nearest existing residence is 20 metres below and will be protected from noise by the new hotel structure;
- the applicant does not plan on the 11th floor restaurant to be open much beyond 1.00am to 2.00am. It is envisaged that the terrace will be used for pre or post dinner drinks. The applicant gave the example of someone dining in the restaurant and then retiring to the terrace for drinks and cigars. There will be approximately 8 tables outside space will be limited and there will be minimal room for vertical drinking. The 11th floor will only house the restaurant and access to it will be by lift. Whilst it is planned for the 11th floor restaurant to be open to non-hotel guests for people to come and dine post theatre for example, it will not be open until 5am and the management can bar access by lift to the 11th floor to non-residents once it is shut. The management will also be able to prevent non-residents accessing it by stairs;
- whilst there is the possibility of bookings for large groups, say for a business event, there is a physical limit to how many people can fit on the terrace at any one time and the management will ensure that they monitor noise levels and behaviour and close the terrace if appropriate. The applicant assured the Committee that action will be taken at the time any issue arises and it will be referred to the management board the next day for future planning and resolution;
- careful management will be paramount to control of the situation. The hotel is to be a high end establishment and its alcohol prices will also be higher than other bars and clubs and so a deterrent to those that might be tempted to graduate there to continue drinking when other establishments close. It is not felt that it is somewhere that drinkers will accidentally drift into when other bars shut;
- the applicant accepted that there might be issues in the first few weeks of opening but once its profile as a high end fine dining experience with strong management is established they will resolve themselves;
- the 1620 residential units will have the same management company as the 1620 hotel. It is hoped that the residents will become regular users of the hotel as well as the other nearby residents. It is in the hotels interests to ensure that the residents are not upset and there are no issues with noise. By having the same management company the issues will be resolved quicker. If noise does become an issue and unforeseen problems occur the applicant is well aware that its licence could be reviewed, varied or revoked and so it will ensure that any issues are

resolved effectively and quickly;

- the applicant will work with the Residents' Associations and the Hoe Conservation society at all stages and has already had meetings with the Hoe Conservation Society. It recognises that guests and locals alike need a good experience to ensure repeat visits and bookings. It recognises the need to run the best operation it can;
- (c) written representations from Responsible Authorities: there were no written representations received from any Responsible Authorities;
- (d) representations from other parties:

Prevention of Public Nuisance:

- the Hoe is a heavily populated residential area with many workers and retired people and as such is not a suitable area for a completely unrestricted licence for alcohol sales 24/7 in the outdoor areas of the Hotel namely the outside area at ground floor level and the 11th floor terrace as this will cause a noise nuisance; This was considered to be relevant under this licensing objective;
- the cafes on the sea front are already converting into alcohol premises and applying for late night licenses which to date have had some form of restrictions placed on them with respect to the lateness of licence, the number of nights in the week/occasions and strict control over the level of noise permitted and how it is to be measured and the penalties for exceeding;
- the issue of noise nuisance was considered to be relevant under this licensing objective. Plymouth City Council's licensing policy recognises that fixed and artificially early closing times in certain area can lead to peaks of disorder and staggered licensing hours can reduce issues and each application is to be judged or
- the various hotels on the Hoe that have function rooms are all indoor and cause very little issue for the local residents to date. The application should be refused to require the hotel owner to liaise with the local Councillor and the local resident bodies to propose a compromise solution that will allow some outdoor events under restrictions;
- concerns as to late night noise levels and anti-social behaviour are relevant considerations under this licensing objective. However, the Applicant at this stage is not proposing any outside events and indicated that whilst in the future they may offer weddings these will be based on the first floor conference area. The applicant was clear that relevant applications will be made at the appropriate juncture;

Prevention of Public Nuisance and Crime and Disorder:

- representations against late night refreshments both indoors and outdoors from midnight to 5am. It is a residential area and people sitting outside the hotel until 5AM could prove to be disruptive to the neighbours potentially disturbing their sleep and could encourage antisocial behaviour across the neighbouring parks and Hoe; this was considered to be relevant under this licensing objective;

The committee have taken into account all relevant representations;

It has considered the statutory guidance and its own licensing policy;

It considers that the action detailed below is appropriate and proportionate to promote the licensing objectives in light of the relevant representations and all that was said by the applicant;

It accepted the reassurances given by the Applicant that a high standard of management control will be put in place to monitor the situation on each and every day of operation. It accepted as genuine the Applicant's assurances that it will consult with and work with the Residents' Associations and Hoe Conservation Society to resolve in a timely manner, any issues that do arise. However, it felt that the conditions contained within the proposed operating schedule attached to the Application would not of themselves be sufficient. It concluded that the amendment to the proposed condition MC4 and the 2 additional conditions set out below would offer protection to the residents and abate any nuisance arising from noise or anti-social behaviour.

Taking account of these representations the licence is granted for:

A) Late night refreshment indoors and outdoors 11pm to 05:00 am

B) Supply of alcohol for on premises – Mon – Sunday 00.00 to 11.59pm

subject to:

- the mandatory conditions of Licensing Act 2003;
- the conditions put forward by the applicant as amended below;
- the following additional conditions from Plymouth City Council's pool of licensing conditions;
 - i. Amendment to condition MC4 as contained within the operating schedule to read " All staff shall be trained in the requirements of the Challenge 25 policies"
 - ii. MMC7 – The premises licence holder or nominated person shall ensure a telephone number is made available and displayed in a

prominent location within the hotel foyer for local residents to contact in case of noise-nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken from the call. Records will be made available for inspection either by any relevant responsible authority throughout the trading hours of the premises;

iii.NC2- To prevent noise from the terraces being intrusive, noise emanating from the premises, so far as it is reasonably practical, will not be distinguishable above other background noise one metre from the façade of the nearest residential property.

38. **Exempt Business**

There were items of exempt business.

Licensing Sub Committee

Tuesday 7 November 2017

PRESENT:

Councillors Hendy, Dr Mahony and Rennie.
Councillor Churchill as the 4th Member.

Also in attendance: Ann Gillbanks (Senior Lawyer), Frederick Prout (Senior Licensing Officer), Helen Rickman (Democratic Advisor) and Jamie Sheldon (Democratic Advisor).

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.

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

The Committee agreed to appoint Councillor Dr Mahony as Chair and Councillor Rennie as Vice Chair for this particular 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. **Ms Amy Magee - The Clarence, 31 Clarence Place, Stonehouse, Plymouth - Temporary Events Notice 12 November 2017**

The Committee –

- Considered the report from the Office of the Director of Public Health

Heard from the Environmental Health Officer that –

- The premises previously went before the Licensing Committee on 1 August 2017 when the Committee took the decision to remove entertainment from the premises licence in accordance with s.177A Licensing Act 2003 removing any exemption for entertainment taking place without a licence.
- Details of complaints that had been received which led up to the decision to remove entertainment from the premises licence in August 2017.
- Since the hearing on 1 August 2017 the Premises Licence Holder and Designated Premises Supervisor has changed to the applicant.

- Nearby residents have contacted the Environmental Health department and expressed concerns since the change in management as the Clarence is intending to provide regulated entertainment. The residents are worried that any regulated entertainment would have unacceptable levels of noise that would cause a public nuisance.
- He has spoken with the manager of the Clarence to advise that Environmental Health would be making an objection to any application for regulated entertainment due to the short space of time that has passed since the review hearing
- The manager stated that structural changes to the pub would take place to minimise noise breakout before any application for entertainment was submitted. The department has not had any further contact with the pub manager regarding any alterations to mitigate any noise escape.
- The manager also stated that she would contact local residents and discuss any proposals to have regulated entertainment with them.
- On 24 October 2017 two applications for temporary event notice had been received, the first being a late notice applying for a party to take place on 3 November 2017 and the second being this application being considered
- The first application was refused by officers in accordance with their delegated powers to deal with late temporary event notices.
- The second application did not contain sufficient detail regarding the nature of the event and as it was now known whether the event would include amplified music, a band, or karaoke for officers to be able to reach a conclusion on the event.
- On the 6 November 2017 the Manager of the premises contacted the Environment Officer to advise that they had installed 2 layers of sound insulating board on the party wall with the adjoining property
- Despite leaving messages on telephone number provided on the application, there had been no contact until the 6 November from the Premises Licence holder or the Manager so the Officer considered it appropriate to refer the application to Committee for consideration.

Heard from the applicant, the Manager of the premises and performer of the event as follows –

- The Premises Licence Holder could not recall receiving any missed calls or messages and perhaps there had been a typing error made on the application form for the telephone number
- They presented the Committee with photographs showing the work that had been completed at the property which consisted of installing 2 layers of 30mm soundboard on the party wall with the adjoining property and installing a lobby at the entrance of the side door which had reduced the footfall from the front door as it was by the smoking area
- They had spoken to neighbours before applying for each Temporary Event Notice
- That the music would be kept to the rear of the building and that it was considered that the people at the far end of the bar would not be able to hear it
- That there will be one performer who would use a microphone and backing track accompaniment
- The intention was that patrons who had attended the Remembrance Parade could finish the afternoon at the premises with music as a celebration of old and new and not to cause any disturbance to the neighbours

In response to Members questions the following information was given –

- That Environment Officer had received no complaints of noise since the current Premises Licence Holder had taken over the licence
- That the Premises Licence Holder had not obtained independent certification in respect of sound containment works
- It was difficult to assess whether noise proofing would be successful unless an event took place or a noise assessment was carried at by Environmental Officers
- That the Premises Licence Holder and Manager wished to work with the Environmental Officers in setting sound levels
- That the event was to take place on Sunday afternoon for a period of 4 hours, with one singer using backing tracks from mini discs

Having heard from all the parties the Committee noted and took into consideration the following:

- That regulated entertainment has been removed from the premises licence at the hearing held on 1 August 2017
- That this was to be an afternoon event where there would be background noise which should help to alleviate any noise problems that may arise
- The efforts made by the Premises Licence Holder towards the reduction of noise
- That the applicants have had no reported problems with noise since they have taken over the licence
- The nature of the event being a single singer using a background tape with agreement that noise levels would be set with Environmental Health officers

The Committee agreed to grant the application.

43. **Exempt Business**

There were no items of exempt business.

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Licensing Committee

Tuesday 6 December 2016

PRESENT:

Councillor Dr Mahony, in the Chair.

Councillors Carson, Sam Davey, Hendy, Loveridge, Parker-Delaz-Ajete, Rennie, Singh, Storer and Winter.

Apologies for absence: Councillors Churchill, Drean, Fry and Morris.

Also in attendance: Emily Bullimore (Street Operations and Street Trading Manager), Ann Gillbanks (Senior Lawyer) and Helen Wright (Democratic Adviser).

The meeting started at 10.00 am and finished at 10.40 am.

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

7. **Declarations of Interest**

There were no declarations of interest made by Members, in accordance with the Code of Conduct.

8. **Minutes**

The committee agreed the following minutes –

Licensing Committee –

- 7 June 2016

Licensing Sub Committee

- 24 June 2016
- 19 July 2016
- 25 October 2016

9. **Chair's Urgent Business**

There were no items of Chair's urgent business.

10. **Street Trading Report 2017/2018**

The Strategic Director for Place submitted the street trading report 2016/17 which provided an overview of the process for the issuing of consents for the 2017/18 trading year.

Emily Bullimore highlighted the following main areas –

- the duration of consents for 2017/18;
- consent fees for 2017/18 background;
- allocation procedure;
- street trading during city centre events;
- ad hoc street trading.

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

- (a) Amey were currently responsible for setting the fees for outdoor seating in all areas outside of the Business Improvement District (BID) areas up until next March when the contract finished; the City Centre Company was responsible for setting the pricing structure for the outdoor seating areas (in the areas outside of the BID a standard fee was charged); currently the outdoor seating policy including the pricing structure was being reviewed by Highways; under this review, the feasibility of introducing a penalty charge for making more than one visit was being investigated;
- (b) board advertising was included within the outdoor seating policy; there was recognition that enforcement of issues had not been proactive;
- (c) traders were able to pay their fees either on a monthly or quarterly basis; currently there were no bad debts within the account;
- (d) work had commenced on the drafting of the licensing policy; consideration would be given to designating Plymouth as a trade area; however work would be required to identify the problem areas prior to the adoption of prohibitive streets/roads;
- (e) in order to trade, the hot food vans required a food hygiene certificate which was issued by Environmental Health and Safety Team; (traders wishing to operate after 11pm would need a premises licence);
- (f) Amey would be contacted regarding the problem of articulated lorries parking along the road near the Chaplins superstore (this caused a problem as vehicles were forced to move into the middle of the road in order to pass the parked lorries);
- (g) Amy would also be contacted regarding the broken slabs in the Piazza.

The committee agreed the following the –

- (i) consent dates for 2017/208 are approved 1 April 2017 – 31 March 2018;

- (2) consent fees are approved for 2017/18 (as set out in appendix 1);
- (3) 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 2017/18;
- (4) 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 of the Licensing Committee and the lead opposition member;
- (5) 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) Assistant Director for Economic Development has delegated authority to approve and set fees for ad hoc street trading applications, within Committee policy;
- (7) 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 2017/18;
- (8) 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 of the Licensing Committee and the lead opposition member;
- (9) Assistant Director for Economic Development has delegated authority to approve, within Committee policy, the issuing of consents to existing Hoe and Madeira Road trading sites seeking to continue trading in 2017/18;
- (10) Licensing Committee delegates approval for Hoe and Madeira Road trading sites to the Licensing Sub Committee for all new applications.

11. **Exempt Business**

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

12. **Confidential Minutes**

The committee agreed the following confidential Licensing Sub Committee minutes –

- 24 June 2016
- 19 July 2016
- 25 October 2016

PLYMOUTH CITY COUNCIL

Subject:	Street Trading Report 2018 / 2019
Committee:	Licensing Committee
Date:	5 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 e-mail: Emily.bullimore@plymouth.gov.uk
Ref:	Street Trading 2018
Key Decision:	No
Part:	I

Purpose of the report:

This report seeks to set the process for the issuing of consents for the 2018 / 2019 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 2018 / 2019 financial year.

Consent fees for both City Centre and Ice Cream sites were increased by 1% for the period 2017 / 2018. Total budgeted income from the consents shown in the Appendix, assuming 100% occupancy, would be £135,860. Additional income arising from a proposed 2% increase for 2018/19, with fees rounded to the nearest pound, would be £2,169.

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 2018 / 2019 are approved of 1 April 2018 – 31 March 2019.
2. The Consent fees set out in Appendix 1, for 2018 / 2019 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 2018 / 2019.
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 of the licensing committee and lead opposition member.
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 2018 / 2019.
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 of the licensing committee and lead opposition member.
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 Waterfront trading sites seeking to continue trading in 2018 / 2019.
10. For Hoe and Madeira Road Waterfront trading sites the licensing committee delegate approval to the licensing sub-committee for all new applications.
11. To agree new Terms and Conditions for the Pier Street Ice Cream pitch following the addition of an electrical hook up installation on site.

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 2018 / 2019 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	PI171 8.131	Leg	29291/ag/8 /11/17	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 2018/ 2019.

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

c) To set the Terms and Conditions for the Pier Street Ice Cream site following the installation of an electrical pillar to pull it into line with the City Centre pitches that have electricity on site.

2.0 Duration of Consents for 2018 / 2019

2.1 It is proposed that all City Centre Consents commence on 1 April 2018 and end on 31 March 2019.

2.2 It is proposed that all hoe ice cream sites (vans) commence on 1 April 2018 and end on 31 March 2019.

2.3 It is proposed that all Hoe Road and Madeira Road food and non-food sites commence on 1 April 2018 – 31 March 2019.

3.0 Consent fees for 2018 / 2019 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 2017 / 2018 by 1% and for the year 2018 / 2019 it is proposed that the Consent fees are increased for the City Centre Street Trader pitches and ice cream consent sites by 2% to cover the increased costs of Non Domestic Rates, repairs, maintenance and increased salary and support costs.

Total annual income for 2017/2018 for these consents if all consents were let at full capacity is currently budgeted at £135,860. A proposed increase of 2% on this budget, with fees rounded to the nearest pound, is expected to result in additional annual income of £2,169 if the consents were let at full capacity.

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; this would not be governed by Street Trading but by the Highways Department. There is also no proposal to raise the rates on the Hoe and Madeira Road Sites as there have been no more consent holders on these pitches as yet, if the pitches became taken then the fees would increase in 2019/2020.

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 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 and Plymouth City Council organise 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 comfortably and safely within the City Centre.

7.0 Pier Street Terms and Conditions.

7.1 In 2017, in agreement with the Chair of Licensing and Lead Opposition Member, it was agreed that an electrical hook up point could be installed at the ice cream consent space in Pier Street. This followed multiple complaints from local residents in that road about the constant engine running noise which resulted in the involvement of public protection.

7.2 Interim Terms and Conditions for that site were put into place and exactly mirror the Terms and Conditions regarding electrical hook up in the City Centre. The Terms and Conditions would be added to the Pier Street Pitch but none of the other Ice Cream sites as they do not have hook up available.

7.3 Terms and conditions would be:

- Once an electricity hook up point is installed on the site at Pier Street, any ice cream van trading from that site must operate from the electricity point and not have the engine running on the site.

- Traders are responsible for registering with an electricity supplier of their choice. Traders should carry out daily visual checks to electrical cabling to ensure that nothing has been tampered with and that cables are not damaged. Should any visual damage be evident, this should be reported to the Street Trading Manager immediately and the consent holder should refrain from using cables until they have been checked by a qualified electrician. The trader will be responsible for payment of the electricity consumed and the standard charge. Traders must inform their chosen supplier when they vacate a site to avoid complications with final invoice.

- All other terms and conditions on the site remain as per the 2018/2019 trading year application and offering of consent.

Appendix I

SITE	LOCATION	TOTAL CONSENT FEES 2017 / 2018	PROPOSED FEE 2018 / 2019
CITY CENTRE SITES			
2A	New George Street (nr. Former Woolworths building)	6299	6424
2B	New George Street (WHSmiths)	6299	6424
2D	New George Street (nr. Sundial)	6299	6424
9	New George Street (Waterstones)	6299	6424
3A	Bedford Way (Royal Parade end)	3793	3869
3B	Bedford Way (New George Street)	6237	6362
4A	Old Town Street	3793	3869
7	New George Street – operating from top outside Drakes Circus to the area opposite Bedford Way	2911	2969
8	New George Street Winter (Sundial area) seasonal	2446	2495
8	New George Street Summer (Sundial area) seasonal	1281	1307
10	Sundial East	7511	7661
11	Sundial West	7511	7661
12	Cornwall St o/side Superdrug	4225	4309
13	Place De Brest East	4225	4309
14	Place de Brest, o/s Specsavers	4225	4309
ICE CREAM SITES			
B	Madeira Road	4411	4499
C	Madeira Road	4411	4499
E	Hoe Road	10881	11099
F	Hoe Road	10881	11099
G	Hoe Road / Grand Parade	5482	5592
H	Pier Street	1311	1337
I	Cliff Road	1067	1088
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*		135,860	138,029

*Assumes 100% occupancy

Subject: Licensing Activity Report
Committee: Licensing Committee
Date: 05 December 2017
Cabinet Member: Councillor John Riley
CMT Member: Dr Ruth Harrell (Office of the Director of Public Health)
Author: Rachael Hind (Service Manager)
Contact: Tel: 01752 308794
e-mail: Rachael.hind@plymouth.gov.uk
Ref: ERS/LIC/
Key Decision: None
Part: I

Purpose of the report:

This report has been compiled to give the Licensing Committee an overview of the various aspects of the work undertaken by agencies involved in regulating the licencing regimes within the remit of the Committee. The report will also highlight future work plans and potential changes in legislation or guidance which will have an impact on the Committee.

Our Plan - One City Council 2016 to 2019:

This report links to the delivery of the City and Council priorities. In particular:

1. Growing Plymouth

Licensing systems aim to assist in the delivery of a safer, more vibrant Plymouth. This in turn should attract more visitors to the City and also support an increase in the numbers of citizens of Plymouth who will utilise the social, cultural and sporting offers available. Opportunities for increased levels of employment should follow.

2. Confident Plymouth

A safe and vibrant leisure economy will allow Plymouth to be positively marketed attractive destination both nationally and internationally.

3. Caring Plymouth

The policy will allow for effective control of alcohol supply, which will assist in reducing alcohol harm and thereby reduce inequality. Whilst alcohol misuse affects individuals from all sections of society, those from the most disadvantaged communities experience the highest burden of harm.

See [Our Plan](#)

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

Not applicable

Equality and Diversity:

Recommendations and Reasons for recommended action:

Alternative options considered and rejected:

Published work / information:

Statement of Licensing Policy

Licensing Act 2003

Revised Guidance issued under Section 182 Licensing Act 2003 - April 2017

[illegible]

Fin		Leg	29458/ag/2 2.11.17	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report?													

Enforcement Activity Report

1.0 Introduction

- 1.1 This report has been compiled to give Members of the Licensing Committee an update of the work undertaken by agencies involved in regulating licensable activities and in particular management of the Evening and Night Time Economy (ENTE). It will also outline specifically the work of the licensing team from the 1 April 2016 to the 31 March 2017 and the 1 April 2017 to the 18 November 2017.
- 1.2 The team received approximately 2487 licensing applications in 2016/2017 and 1043 from 1.4.17 to 18.11.17 covering the following areas:
- Alcohol and entertainment
 - Gambling
 - Sex Establishments
 - Petroleum
 - Explosives
 - Animal welfare
 - Charitable collections
 - Scrap metal
 - Caravan licensing
 - Body and Beauty Art

2.0 Licensing Act 2003

- 2.1 Licensing Officers with administrative support, undertake all aspects of the licensing function covered by the Licensing Act 2003. During the 2016 financial year and the 7 ½ months until 18 November 2017, Officers processed the following number of applications:

Licence Type	2016/2017	01/04/17 – 18/11/17
Licensing applications, transfers and variations	503	278
New Personal licences	224	100
TEN's	400	223

- 2.2 Responsible authorities continue to submit formal representations in respect of licensing applications. In the majority of cases the applicant will agree with the advice given, thereby allowing them to be mediated out. Members receive regular updates of all the mediated applications by way of a report.

- 2.3 The Licensing Sub-Committee undertook the following activities:

	2014/15	2015/2016	2016/2017	01/04/17 – 18/11/17
Applications or Variations	11	6	8	5
Review of premises licences	3	2	1	3

3.0 Licensing Act Fees

- 3.1 Licence fees are prescribed in regulations (the Licensing Act 2003 (Fees) Regulations 2005). The fees paid in respect of applications for new premises licences and club premises certificates; applications for full variations to premises licences and club premises certificates; and annual fees in respect of premises licences and club premises certificates vary dependent on the national non-domestic rateable value (NNDR) “band” of the premises.
- 3.2 The government does not intend to change the existing fees regime in the immediate future. It notes that the revaluation of business rates that came into effect in April 2017 resulted in increased rates for many licensed premises, with an additional impact in some cases of those premises moving up a fee band, meaning an increase in business rates and licensing fees as a result.

4.0 Legislative Update

4.1 Community Events and Ancillary Sellers -

The government has given further consideration to these but has not committed to repealing it.

The Community and Ancillary Sellers Notice (CAN) is designed to benefit particular small businesses and community groups who wish to sell or provide small amounts of alcohol in limited circumstances as an ancillary part of a wider service. For a low, one-off fee a CAN user will be able to sell a limited amount alcohol over the course of three years between the hours of 7am and 11pm.

These notices have complex limitations which will be difficult to monitor and there are concerns that it will provide greater availability for alcohol within the community.

4.2 Minimum Pricing

This is under review and the Government were waiting for the result of a legal case between the Scottish Government and the Scotch Whisky Association. The government successfully won this case and so we await an update.

- 4.4 **Super strength alcohol and the responsibility deal** – the Government intends to deal with excessive alcohol consumption through taxation and to continue working in partnership with the industry.

4.5 Health Objective

This is not intended to be added in future, however we liaise closely with our colleagues in ODPH and update the Alcohol Profile to ensure the most up to date information is available to support representations.

4.6 Right to work checks

Under the measures, brought in as part of the Immigration Act 2016, immigration checks are now part of the process for applying for a licence. From 6 April 2017, a premises or personal licence will not be issued to anyone who does not have permission to be or work in the UK. Being granted a licence and continuing to hold it will also be reliant on complying with the UK's immigration laws.

Additionally, the Home Office are now classed as a “Responsible Authority” and are consulted in the same way as the police before a licence is granted. If a business has any immigration offences and civil penalties, these will be considered as part of the licence application, and as a ground for making a formal request to a licensing authority for a licence to be reviewed.

Since implementation of the requirements to the current date no applications have been received by the Licensing Team where it has been established that the applicant does not have a right to work in this country.

5.0 Public Safety and Public Nuisance

- 5.1 During 2016/17, and from the 1st of April 2017 until the date of this report 134 and 77 (respectively) formal noise complaints were registered against licensed premises, which is very similar to previous years.
- 5.2 Environmental Health Officers continue to use an escalation process when investigating noise complaints, discussing the circumstances of the complaint with the responsible person at the earliest opportunity in order to allow them to resolve the matter quickly without the need for further formal action. In most cases the complaint can be resolved by way of an action plan or minor variation with the agreement of the licensee.
- Two premises licences (The Plymstock Inn and The Clarence) were reviewed in this financial year due to public nuisance and public safety.
- 5.3 An out of hours noise service operates between 8pm and 1am on Friday and Saturday nights to respond to noise complaints involving licenced premises. Specific visits outside of these hours can be made by arrangement where necessary.

	2016/2017	01/04/17 – 18/11/17
Total Calls to Service (Domestic & Licensing)	305	166
Calls Relating to Licensed Premises	86	44

6.0 Protection of Children from harm

- 6.1 The Police continue to try and reduce the access to alcohol, from on and off-licences to young people by means of neighbourhood interventions and advice to retailers. The number of test purchases was reduced this year due to conflicting advice regarding the RIPA (Regulation of Investigatory Powers Act) requirements. This has still not been resolved.
- 6.2 In addition as a result of the reducing alcohol campaign retailers are being reminded of their responsibilities by neighbourhood officers, Licensing Officers and Plymouth City Council Officers far more frequently. This is proving to be a slow ongoing initiative but is showing results with the majority of venues now engaging with the challenge 25 policy.
- 6.3 Businesses are supported to minimize the potential for under age sales. All licensed premises in Plymouth have free access to a regional under age sales web based training system for their staff. Model age verification policies have been provided and officers are available to provide one to one advice.

7.0 Public health mapping

- 7.1 Alcohol impacts on individuals, families and communities in a number of ways. Some of these impacts are difficult to distinguish and define and some are more tangible. Public health has developed an alcohol harm mapping resource that presents neighbourhood level mapping of a number of indicators including alcohol related crime and disorder and injuries associated with alcohol. The indicators are mapped against levels of deprivation and density of licensed premises to give a detailed picture of how communities in Plymouth are affected by alcohol. The intelligence provided in this mapping is used to support the systematic assessment of licensing applications.
- 7.2 The alcohol harm neighbourhood profiles have been updated in 2017 and can be found on the Council website at:

https://www.plymouth.gov.uk/sites/default/files/Alcohol%20harm%20mapping%20Plymouth%20neighbourhood%20profiles%202017_0.pdf

8.0 Gambling Policy

- 8.1 Licensing Officers with administrative support are also responsible for licensing establishments such as casinos, betting shops, adult gaming centres, bingo halls covered by the Gambling Act 2005.
- 8.2 The Gambling Commission issue operators licences and regulates the gambling practices of the industry. They have recently updated their licence conditions and codes of practice.

As of April 2016 existing operators and applicants are required to complete a local risk assessment, covering the impact of their activities on the local community. Matters that may be considered include:

- Socio-economic makeup of the local community, including new developments as they happen
- Vicinity of sensitive buildings such as schools, youth clubs, hostels etc
- Type of usage of the premises
- Layout and size, position of access points
- Density of gambling activities
- Operating hours
- Staffing and supervision of the licenced area

The assessment must also consider how any risks will be mitigated and monitored.

Operators are also be required to introduce systems that allow a customer to make a single request to self-exclude from all operators within their area (normally where they live or work).

- 8.3 The Councils Licensing Policy was republished in January 2016. The new policy provided additional details regarding our expectations of these local gambling risk assessments. Councils will also have the discretion to create Local Area Profiles (LAPs). This will consist of local area data, which should be used by operators when completing their local risk assessments.
- 8.4 We have drafted a local area profile for Plymouth and this will be launched in the New Year. Profile maps similar to the alcohol maps have been created. These will then be used to check the suitability of the operators gambling risk assessments and when considering the suitability of any new applications.
- 8.5 Licensing Committee has delegated responsibility for the setting of annual fees payable by gaming establishments. The latest fees were approved by Members on the 14 February 2011 and an update in June 2015 to remain at the maximum levels specified by Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. Income generated has remained stable since its introduction.

9.0 Sex Establishments

- 9.1 The current Sex Establishments Policy was approved by Council on the 30 January 2012, effective from the 5 March 2012. This brought premises such as lap dancing clubs within the legislative control of the Local Government (Miscellaneous Provisions) Act 1982 as opposed the Licensing Act 2003.
- 9.2 Originally two lap dancing clubs and two sex shops were licenced, but subsequently only one of each remains in business

10.0 Scrap Metal Dealers

- 10.1 The Scrap Metal Dealer's Act 2013 reformed licensing requirements and was designed to curtail the profitable activities of metal theft. These changes prevent cash transactions (which are not traceable) and revised police powers of entry to check that these prohibitions are being complied with.
- 10.2 Licenses were renewed in 2016 with no major issues being identified.
- 10.3 The new system has been very effective in reducing scrap metal theft and the new records kept by operators have been useful to the Police when investigating other crimes.

11.0 Partnership Working

- 11.1 The responsible authorities meet on a regular basis to discuss enforcement options and consider strategies for dealing with 'problem premises'. Premises operating in the evening and night time economy (ENTE) continue to receive constructive advice from enforcement agencies such as Licensing, Environmental Health, Fire Service, Trading Standards and the Police to help encourage a responsible ENTE.
- 11.2 Interventions include unannounced and announced visits to assess the licensed premises against licensing conditions and other workplace regulations. The licensees, managers and staff are encouraged to participate in community schemes for the licensed trade such as Best Bar None, Pubwatch and the Licensing Forum.
- 11.3 Officers from all enforcement agencies undertake joint inspections where appropriate to ensure a consistent approach to enforcement is maintained and demonstrates to the licensee and designated premises supervisor that agencies work together. Enforcement agencies also undertake night-time inspections in order to assess how licensed premises comply with their regulatory responsibilities.
- 11.4 The Licensing Team and Police continue to support Pubwatch schemes and are a member of the Best bar None Steering Group. Additional time is now being devoted to multiagency working on safeguarding, modern slavery/exploitation and hate crime projects.
- 11.5 The Licensing Team are members of Safer Plymouth and delivered a presentation at the 'Safe Night Out' Conference in June 2017. The ENTE and Alcohol Harm Reduction Subgroup is also being revisited in December.

12.0 Work Initiatives for 2017/18

- 12.1 The responsible authorities will continue to support licensed premises to ensure that they are best placed to contribute towards providing a positive and well managed ENTE. Ongoing work with Planning will assist in the development of the Plymouth Plan and supplementary planning guidance in relation to the ENTE
- 12.2 All agencies will continue to meet to discuss enforcement strategies, best practice and on-going operations to ensure that resources are best targeted at those premises that contribute significantly to undermining the licensing objectives.

12.3 Significant areas of work will be:

- Continue our joint working to detect, deter and disrupt modern slavery and exploitation
- Continue the joint working with the Police to reduce hate crime
- Continue with on the voluntary reducing the strength campaign
- Undertake a programme of alcohol and gambling test purchasing operations
- Publish the local area gambling profiles
- Audit all gambling risk assessments against the new gambling profiles
- Safeguarding training for gambling establishments to be arranged.
- Training of the Taxi Marshalls that will be appointed for the Barbican to assist with the ENTE.
- Reinstatement of the Event Safety Advisory Group and ENTE and Alcohol Harm Reduction Sub Group.

13.0 Conclusion

- 13.1 This report has sought to provide members with an insight into the range of work initiatives and enforcement operations undertaken by the Licensing Team for regulating the evening and night time economy throughout 2016/17. In addition to provide details of the work initiatives planned for the coming year and how partner agencies will continue to interact to ensure that limited resources are targeted effectively.

PLYMOUTH CITY COUNCIL

Subject: Information regarding delegated decisions for applications for the grant / variation of premises licences

Committee: Licensing Committee

Date: 05 December 2017

Cabinet Member: Councillor John Riley

CMT Member: Dr Ruth Harrell (Office of the Director of Public Health))

Author: Frederick Prout (Senior Licensing Officer)

Contact: Tel: 01752 304792
e-mail: licensing@plymouth.gov.uk

Ref: ERS/LIC/PREM

Key Decision: None

Part: I

Purpose of the report:

Applications have been received from various premises within Plymouth for the grant / variation of a premises licence under Sections 17 and 34 of the Licensing Act 2003.

Our Plan - One City Council 2016 to 2019:

This report links to the delivery of the City and Council objectives and outcomes within the plan.

Growing: The Licensing Policy provides a balance between the need to protect residents against enabling legitimate businesses to operate within a necessary and proportionate regulatory framework.

Caring: Reduce Inequalities as the Licensing Policy has put in place an appropriate framework that will allow decision-makers, when considering applications, to reduce the impact on safety, well-being and local amenity on the local community. The licensing system must minimise the burdens on business and to allow communities the opportunity to influence decisions.

See [Our Plan](#)

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

Not applicable

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

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action

That Members consider this report and note its contents

Alternative options considered and rejected:

None.

Published work / information:

For more information please see the below links.

[Statement of Licensing Policy](#)

[Licensing Act 2003](#)

[Revised Guidance issued under Section 182 Licensing Act 2003 - April 2017](#)

Background papers:

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

Sign off:

Fin		Leg	29455/ag/2 2.11.17	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? No													

1.0 INTRODUCTION

- 1.1 Since the introduction of the Licensing Act regime in 2005 applications have been received for the grant and variation of premises licences. Some of these applications have received representations from responsible authorities or other parties and have been mediated out by agreement with both the applicant and the respective responsible authority without the need to bring the applications before the committee for determination.

2.0 RESPONSIBLE AUTHORITIES

2.1 *Environmental Health*

Off Licence	Keyham
Weston Mill Oak Villa	Weston Mill
The Old Morgue	Stonehouse
Fresher & Professor	Greenbank
Royal William Yard	Stonehouse
Mainstone Community Association	Mainstone
Turtle Bay Restaurant	City Centre
Blues Bar & Grill	Barbican
Bills	City Centre
Tasty Food Express	Bretonside
Fastnet Tented village	Mount Batten
Terra Nova	Devonport
Lill's Kitchen	City Centre

2.2 *Devon & Cornwall Police*

Rockets and Rascals	Barbican
Beckay Stores	Devonport
Intrinity	Burrington
Red Lantern	North Hill
Home Park Stores	Milehouse
Central Stores	Union Street
Weston Mill Oak Villa	Weston Mill
The Old Morgue	Stonehouse
Vertical Plus Ltd	Plympton
Shop and Go	Ford
Mainstone Community Association	Mainstone
Dinky Diner	Devonport
The Vegan Deli	City Centre
Bills	City Centre

Plymouth Guildhall
Tasty Food Express
Terra Nova
Rust and Royal
Lill's Kitchen

City Centre
Bretonside
Devonport
Barbican
City Centre

2.3 *Trading Standards*

Dinky Diner
The Vegan Deli
Terra Nova
Toot

Devonport
City Centre
Devonport
City Centre

2.4 *Licensing Authority*

Popworld
Greedy Pig
Fred's Kitchen
Terra Nova

City Centre
City Centre
Bretonside
Devonport

3.0 **CONSIDERATIONS**

- 3.1 Paragraph 9.31 of the Guidance issued under section 182 of the Licensing Act 2003 and section 18(3)(a) of the act states that a hearing does not have to take place if there are representations but all parties can reach an agreement through a mediation process. When written agreement has been made representations are then withdrawn and the agreed conditions are included within their operating schedule. In such cases officers can determine the application.
- 3.2 The premises listed above are ones that have been dealt with by way of mediation and written agreement for the period between 01 May 2016 until 31 October 2017 and this report is submitted for the information of the committee.

The following relates to exempt or confidential matters (Para(s) 1 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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