

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 1);
- (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 the 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-lined 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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