

Licensing Sub Committee

Tuesday 23 January 2018

PRESENT:

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

Also in attendance: Catherine Fox (Legal), Marie Price (Enforcement Officer) and Helen Rickman (Democratic Advisor).

The meeting started at 10.00 am and finished at 11.35 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.

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

Agreed that Councillor Dr Mahony was appointed Chair, and Councillor Churchill appointed as Vice Chair for this meeting.

45. **Declarations of Interest**

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

46. **Chair's Urgent Business**

There were no items of Chair's Urgent Business.

47. **Grant of Premises Licence - Devon Stores, 38-40 Marlborough Street, Devonport, Plymouth, PL1 4AH**

The Committee:

- (a) considered the report from the Director of Public Health;
- (b) heard from the applicant as follows:

written representations:

- the applicant has submitted an application for a premises licence and has applied to be permitted to carry out the following licensable activities:-
 - 1) Late Night Refreshment (Indoors and Outdoors) – Monday to Sunday 11pm to Midnight
 - 2) Supply of alcohol for consumption OFF the premises – Monday to

Sunday 0600am to Midnight

3) Hours premises are open to the public – Monday to Sunday 0600am to Midnight;

- in support of the application and in response to written representations a copy of the operations and training manual had been produced;

heard from the applicant:-

- the owner of the premises has 11 years' experience of managing off-licenses. He owns 5 stores and 3 petrol stations all of which are licensed. One shop is in North Prospect, which it was felt was in a similar situation as the premises subject to this application. It is subject to the same management structure as this premises will have. It was built under Council accommodation allocated to over 55s. The residents are customers of the shop. There have been no problems;
- he has employed an area manager, who lives locally and who has 25 years retail experience, 15 of which with licensed premises. She has been area manager for this company for 3 years. She will manage both stores;
- in the course of preparation of this application they met with the police and took on board their suggestions which are reflected in the operating schedule and proposed conditions. The police have not raised any concerns or made any representations. The Committee were referred to the judgment in the Thwaites PLC appeal case and in particular the statement "" the fact that the police did not oppose the hours sought on this basis should have weighed very heavily with them, whereas, in fact, they appear to have dismissed the police view because it did not agree with their own". Whilst recognising the fears of the residents, there is no evidence that problems will materialise as a result of these premises. The licence holder will help address any issues that arise;
- there is always the potential for any premises to cause problems. It is how it is managed that counts and that is why an experienced area manager has been employed. They do not cut corners with their management structure. Her name and number will be available within the shop to be given to customers/residents if a problem should arise;
- they will not be selling high strength beer or cider;
- the responsible authorities have considered the proposed conditions and have raised no concerns or representations;
- the owner stated that he views this shop as a community business, delivering goods to them. If there are any issues that arose he would work to put them right without delay. His mantra is the customer is

always right;

- the contents of the operating manual were summarised and the 3 stage training process of new members of staff in who they should and should not be selling alcohol to was explained;
- they will be operating Challenge 25;
- they will have CCTV both inside and outside the premises. The CCTV outside the premises should deter trouble makers loitering outside the premises and therefore should also benefit the residents of the Helen Fox House;
- having considered the written representations they are prepared to offer additional conditions which they feel will abate any likelihood of public nuisance occurring;
 - a) Signage being placed inside and outside the premises asking for consideration for residents from customers when in the vicinity of the premises;
 - b) A mobile extra bin which will be emptied regularly and taken in when the premises closes;
- whilst they cannot offer it as a condition as they do not know whether it is feasible, they will join a Radio Link Scheme if there is one for the area;
- the applicant accepted that this premises can be distinguished from the North Prospect one in that the North Prospect one was purpose built with sound proofing. The ceiling on this premises whilst not sound proofed is made of concrete. The management structure will be the same;
- there is planned to be an alarm that is connected to the door which will sound on the shops computers within the premises. The sound should not be audible to residents above but if there was an issue they would immediately try and resolve the issue even if it meant stopping using it. They do not plan on playing music. They are very focussed on customer happiness and the residents will be their customers and they do not want to upset them. They want to be part of the community;
- in response to Members questioning, the applicant agreed that it would accept a time limited condition of 3 months whereby its opening hours were brought forward to enable the premises to “bed in” and any teething problems to be resolved. At the end of that 3 month period the premises would revert to the planned opening hours as set out within the application. The applicant indicated a preference for 11pm as the earlier closing time but if need be would accept 10pm. Any earlier than that and the business would cease to be

viable;

(c) representations from responsible authorities:

- there were no representations from the responsible authorities;

(d) representations from other interested parties:

Prevention of crime and disorder

- Marlborough Street and the surrounding areas already suffer from problems associated with street drinking with disturbances and nuisances occurring regularly. Local residents especially those in sheltered accommodation have suffered enough. They already feel intimidated and feel an increase in more anti-social behaviour associated with alcohol sales would be too much for them. In the likelihood of antisocial behaviour arising the Members were satisfied that the management structure and style would be sufficient to abate the same; *this was considered to be relevant under this licensing objective. There was no evidence to link the street drinkers and antisocial behaviour to these premises;*
- if you get shoplifters in this shop and police have to be called it's going to be unsettling for some residents (sheltered accommodation); *this was not considered to be relevant under this licensing objective. This was felt to be a police matter;*
- the residents of the sheltered accommodation are fearful that the street drinkers are going to use the shop and they will then find them causing a nuisance and urinating in the sheltered accommodation's entrance way/porch and the car park at the rear. Some residents will be afraid to go out. People from the Salvation Army Hostel at the end of the street already congregate and cause problems despite CCTV recently installed at the other end of the street; *this was considered to be relevant under this licensing objective. However, there was no evidence to link issues directly with these premises. It was felt that any likelihood of antisocial behaviour would be reduced by the existence of CCTV outside of the premises. It was felt that the CCTV would benefit the community as a whole. It was felt that the experienced management team and systems to be put in place would take steps to mitigate any such behaviours;*
- they are going to open until 11pm and there are already 4 other shops selling alcohol as well as a 24 garage. Everywhere else shuts at 10pm. The street is dead at night and the other shops are struggling. The need for another is questioned; *the issue of "need" is not a relevant consideration for the Licensing Authority. It is a planning consideration;*

The prevention of public nuisance

- noise disturbance from people on the street on this part of the

pedestrianised Marlborough Street especially that linked to the purchase of alcohol is already too much for the residents of sheltered accommodation. This shop is under Helen Fox House sheltered accommodation. If groups gather outside the premises in the evening it will disturb the residents some of whom have mental health issues. Some residents go to bed at 8pm onwards due to their health difficulties and needs. They already run the risk of hearing foul language and being disturbed by noise if they open their windows; *this was considered to be relevant under this licensing objective. However, there was no evidence to link issues directly with these premises. It was felt that any likelihood of antisocial behaviour would be reduced by the existence of CCTV outside of the premises. It was felt that the CCTV would benefit the community as a whole. The proposed management structures and stated response to anyone causing trouble within the premises would be sufficient to guard against such issues. The Members accepted the offer of the Applicant to include an additional condition that signage would be displayed both within the shop and outside warning patrons that it is a residential area and to keep noise to a minimum. The interested party had indicated that the street was dead at night;*

- noise disturbance from deliveries relating to these premises of building supplies has disrupted the residents sleep. Many of the residents have health needs from Alzheimer's, to a frontal lobe tumour and many go to bed from 8pm onwards and are disturbed by noise. They cannot sleep with their windows open without being woken up; *This was considered to be relevant under this licensing objective. Whilst the disturbance from delivery noise complained off relates to building supplies rather than shop supplies, the Members believed that this demonstrated a high likelihood of shop deliveries made at antisocial hours disturbing the sleep of vulnerable adults with many health needs. The Members felt it could be obviated against by imposing a condition preventing deliveries at anti-social times;*
- despite the supply of extra litter bins , the cleanliness of Marlborough Street is made worse due to the current array of cans and bottles which would be worse should this licence be approved; *This was considered to be relevant under the licensing objective. The Members felt it would be obviated against by accepting the offer of an additional condition regarding the supply of a mobile external litter bin;*

The Committee:

- has taken into account all relevant representations;
- has considered the statutory guidance and its own licensing policy;
- 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;

- 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 to resolve in a timely manner, any issues that do arise. However, given the sheltered accommodation above and how vulnerable many of the residents are 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 additional conditions set out below would offer protection to the residents and abate any nuisance arising from noise or anti- social behaviour. The committee was satisfied with the layout of the shop and felt the inclusion of the CCTV provisions would be a support to managing problems and would benefit the community as a whole. It also felt that a variation and reduction to the permitted hours of off sales sought to reduce the likelihood of issues arising under the crime and prevention and public nuisance objectives, would be appropriate and proportionate.

Having taken into account these representations the licence is granted for:

- A) late night refreshment indoors and outdoors 11pm to 12 midnight;
- B) supply of alcohol for consumption OFF the premises :-
Monday – Saturday 06.00am to 11.00pm
Sunday 06.00am to 10.30pm

subject to:

- the conditions put forward by the applicant as amended/added to below and;
- the following additional condition from Plymouth City Council's pool of licensing conditions
- additional conditions proposed by applicant:
 1. The Premises License Holder of nominated person shall erect and maintain suitable and sufficient conspicuous and legible notice at every entrance/exit both within the premises and outside, requesting patrons and staff to avoid causing noise, nuisance or disturbance to local residents;
 2. The Premises Licence Holder or nominated person shall ensure that a mobile litter bin is placed outside the front of the premises during the premises opening hours. Such bin is to be brought inside at closing time;
 3. That for a period of 3 months, commencing with the date of the premises opening, no off sales will be made beyond 10pm, 7 days a week. At the end of the 3 month period the times for the supply of alcohol will revert to the times granted for off sales above – namely 11.00pm Monday to Saturday and 10.30pm on Sunday;

Additional Condition from Plymouth City Council's pool of licensing conditions;

4. The delivery of goods is restricted and must only occur between the hours of 8.00 am and 7.00pm;

Whilst not a condition, the Members strongly urge the Premises to join any existing radio link scheme for the area.

48. **Exempt Business**

There were no items of exempt business.