

# Licensing Sub Committee

Tuesday 22 January 2019

## PRESENT:

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

Also in attendance: Catherine Fox (Legal Officer), Helen Prendergast (Democratic Advisor) and Fred Prout (Licensing Officer).

The meeting started at 10.00 am and finished at 10.55 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.*

## 6. **Appointment of Chair and Vice-Chair**

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

## 7. **Declarations of Interest**

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

## 8. **Chair's Urgent Business**

There were no items of Chair's urgent business.

## 9. **Grant of Premises Licence - City Grill, 130 Cornwall Street, Plymouth**

At 10am Members were advised that the applicant had not arrived at the Council House.

The Licensing Officer confirmed that following the adjournment of the hearing on 4 December 2018, he had visited the City Grill and had spoken to the applicant. He had stated that his agent had not notified him of that hearing. He was using an agent, as whilst his spoken English was good, he could not read it well. The Licensing Officer confirmed that he verbally advised the applicant of the adjournment and the time and date of today's hearing. The Licensing Officer had also notified in writing both the applicant and the agent of the date and time of today's hearing.

The Committee allowed a further five minutes for the applicant to attend.

Following a check of the building and confirming that the applicant had still not attended, the Committee determined that today's hearing, having been adjourned once to allow for the applicant's attendance, should proceed in the applicant's absence.

The Committee –

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

the applicant had submitted an application for a premises licence and had applied to be permitted to carry out the following licensable activities -

- late night refreshment by delivery only Sunday to Thursday 11pm to 3am and Friday to Saturday 11pm to 5am;
  - the time the premises would be open to the public midday to 11pm;
- (c) representations from responsible authorities: there were no representations from the responsible authorities;
  - (d) considered the following written and oral representations of the interested parties under the following licensing objectives -

the prevention of public nuisance -

- noise disturbance – the local residents were a mixed community, many of whom were elderly and some young families with babies. They were concerned that, should the application be granted, they would have their sleep time disturbed throughout the night by noise nuisance in the form of
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  - (1) engines for the delivery vehicles starting and stopping and doors opening and closing at the rear of the premises which was close to their flats and windows;
  - (2) noise from staff taking their breaks in the rear of the courtyard which backed on to the flats. There was a heavy safety door which made a lot of noise when it opened and shut. This back door was the one point of access for delivery and staff breaks. Noise within this rear yard echoed with the proximity of the tower block behind;

- (3) at night time, without the background noise of daytime activities, the noise of cooking and washing up would be very prominent;
- (4) it was not felt that a condition to prevent use of the rear yard would be a workable option, as the business would need to use the front door and this could lead to members of the public being drawn to the premises in the belief that it was open;
- (5) all of the above points concerned additional noise that was not currently there.

These points were all considered to be relevant under this licensing objective.

(e) nuisance from smells -

- (1) the residents all appreciated that they live in the city centre and there were restaurants and cafes around them which trade until approximately 10.30am to 11pm each day from which cooking smells emitted from;
- (2) the age and design of the buildings resulted in these smells permeating into their individual homes. The interested party confirmed he had visited residents when the kitchens were operating and he could smell frying meat;
- (3) the extractor fans sent the smells out at a low level into the rear yard which then impacted the homes overlooking that yard;
- (4) currently, after 11pm there were no smells. Should this application be granted then the residents would have cooking smells including smells from fat and meat throughout most of the night as well. This would impact negatively on their ability to sleep and to have their windows open at night.

These points were considered to be relevant under this licensing objective.

The Committee had taken into account all the relevant representations.

It had considered the statutory guidance and its own licensing policy.

The Committee considered that the action detailed below was appropriate and proportionate to promote the licensing objectives, in light of the relevant representations and the failure of the applicant to attend on either the original hearing date of 4 December 2018 and the adjourned hearing today.

Members could not be satisfied that the management structures of the business would be able to take appropriate action to abate any possible nuisance from either noise or smells, as the application was silent on this point. The applicant had not taken the opportunity to attend at this hearing to explain his working practices and procedures and how any potential for nuisance from noise and/or smell could be abated. The Members considered that there was a high likelihood of nuisance from noise and/or smell occurring at antisocial hours disturbing the sleep of residents many of whom were vulnerable adults given their age.

The Committee –

- (1) did not consider that the proposed additional conditions included at appendix 3 to the application would be sufficient to abate any nuisance from noise or smell;
- (2) considered whether there were any additional conditions or variations to those conditions contained at appendix 3 that would offer sufficient abatement of nuisance from noise or smell. It did not believe there were any such conditions or variations to abate the nuisance.
- (3) considered whether there were any variations to the proposed operating hours as applied for that would abate nuisance from noise and smell to an acceptable level. It did not believe any variations would abate the potential for nuisance.

The Committee agreed to refuse the application for the grant of a Premises Licence for the City Grill.

#### 10. **Exempt Business**

There were no items of exempt business.