

Licensing Sub Committee

Tuesday 16 July 2019

PRESENT:

Councillor Rennie, in the Chair.
Councillor Parker-Delaz-Ajete, Vice Chair.
Councillor Riley.

Apologies for absence: Councillor Morris.

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

The meeting started at 10.00 am and finished at 12.51 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 is appointed as Chair and Councillor Parker-Delaz-Ajete is appointed Vice Chair.

17. **Declarations of Interest**

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

18. **Chair's Urgent Business**

There were no items of Chair's Urgent Business.

19. **Variation of Premises Licence - The Terrace Cafe Bar, 74 Madeira Road, Plymouth, PL1 2JU**

The Committee:

- (a) considered the report from the Director for Public Health;
- (b) heard from the applicant that:
 - the premises have been licensed for the last 16 years. The current Premises Licence Holder took over a couple of years ago. As far as they are aware there have been no major incidents at the premises and it is a safe place to be;
 - they have had a handful of complaints recently with regards to noise

from music. These complaints have mainly come from the Hooe and Down Thomas area as the music noise was carrying across the water. The applicant has been in contact with Environmental Health to address these problems. The condition put forward by Environmental Health means there will be a noise reduction between 11pm and 1am so that no music is audible between those times, therefore there shouldn't be any problems for local residents. Environmental Health have said they will do some live monitoring of the music;

- they do not want to cause problems for local residents and disturb their sleep;
- the applicant has joined the Best Bar None scheme to make sure the business gets support it needs to ensure they comply with the licensing objectives;
- live music: there is no intention to use the new hours 7 days a week. The varied licence will just provide flexibility. They usually only have live music on most Sundays and twice a month on a Saturday;
- off sales: this is purely required so that they can sell Plymouth Gin from a modified horse box. They have obtained funding from Plymouth Gin to install a Plymouth Gin bar within the premises. The idea is that their customers can try the various offerings of Plymouth Gin and then buy a Plymouth Gin Box or something along those lines. Tourists are the target customers and it will not be priced so that young people could buy it and then go and drink it on a park bench. They will be selling nice bottles of spirits. They do not require such long hours to do this and envisage sales taking place in the afternoon into the evening. They would be happy to have the hours cut accordingly and a cut-off point of 9pm would be acceptable;
- they are a business operating in tough times and this has necessitated the variation to the licence. As a lot of people come to events late in the evening, arriving between 9 - 10pm, the variation of hours provides an additional trading period and will make events more cost effective;
- the business' customer target is the middle aged group. With this in mind they do not believe their clientele would be causing the anti-social behaviour being complained of or envisaged by local residents. Also, they do not believe that their customers use the fore shore;
- most promoted events are ticketed;
- their experience is that once the music stops then most people leave the premises;
- with regards to litter concerns, when non-glass drinking vessels are used these are shortly to be branded with The Terrace name.

Therefore it will be easy to see whether any litter comes from the premises. When the branded non-glass drinking vessels are introduced, the premises will run a deposit scheme whereby customers will pay a deposit which will be refunded on the return of the drinking vessel;

- staff carry out a clean-up of litter in the immediate area of the premises in the evening and then again in the morning (including paths to and from the premises);
- in response to questions about anomalies in the conditions within the operating schedule:
 - all mention of Challenge 21 or Challenge 25 should be Challenge 25; Challenge 21 should be deleted;
 - the mention of goods delivery time should read 'between 8am and 4pm';
 - the door staff condition should only apply when they have promoted events as they don't need door staff at other times;
 - the conditions that make reference to plastic drinkware should again only relate to promoted events;
 - the condition relating to 'no admissions or re-admissions' should read that this will apply from 11pm;

(c) heard from the local residents association and considered their verbal and written representation, as follows:

- there will be noise from late night music; bass carries and is an issue from time to time. This was considered to be relevant under the prevention of public nuisance licensing objective.

The committee were satisfied that the condition agreed with Environmental Health when taken with the amendment (shown below) to condition a) in the applicant's proposed conditions at appendix 2 of the report, would address the concerns raised and would be sufficient to promote the licensing objective.

i. Condition a) of the proposed conditions be amended so that after the words 'Keep noise pollution to a minimum', the words 'where possible' are deleted.

- There would be noise from clients leaving the premises in a rowdy manner late at night.

This was considered to be relevant under the prevention of public nuisance licensing objective.

The committee were satisfied that the proposed conditions put forward in the applicant's operating schedule were sufficient to address the concerns and promote this licensing objective. The committee had accepted what the applicant said with regards to the premises customer base, signage about respecting local residents, that there would be door staff for promoted events, and that the applicant was willing to work with Environmental Health to avoid creating problems for local residents.

- The addition of off sales would encourage rowdy behaviour along foreshore and the park.

This was considered to be relevant under the crime prevention licensing objective.

The committee, having taken into account the applicant's confirmation of the timings and type of sales this licensable activity was required for, considered that the following conditions would be appropriate to address the concerns raised and promote this licensing objective:

- i. The hours for off sales be limited to take place between 10am and 9pm, Monday - Sunday
 - ii. Off sales be limited to sales of Plymouth Gin in their original sealed containers, from one dedicated location within the premises
- There may be an increase in the volume of litter and anti-social behaviour in and around the foreshore and the park. Litter is harmful to marine life and there are areas of scientific interest in the vicinity.

This was considered to be relevant under the crime prevention licensing objective.

The committee considered that the proposed conditions in Appendix A and the new condition below were sufficient to address the concerns raised and promote the licensing objective. In creating this new condition, the committee had taken into account what was said by the applicant with regards to branded non-glass drinkware:

- i. By the 20 October 2019, when disposable non-glass drinking vessels are used, they must be branded so as to identify the premises.
- There was a risk to public safety due to inebriated people being next to the sea.
This was considered to be relevant under the public safety licensing objective.

The committee, however, accepted what was said by the applicant about his clientele's use of the area. It also noted that there had been no concerns raised by the Police or any other responsible authority in this regard and therefore did not consider that this was a matter

which needed addressing within the licence.

- The following representations were not considered relevant and were not taken into account in decision making as they do not relate to any of the licensing objectives:
 - Granting the application would change the character of the area and there are plenty of late night drinking venues on the Barbican
 - If done properly the Café would create a European type atmosphere

The application would be granted subject to the proposed conditions detailed in Appendix 2 of the report (modified as detailed below), the condition agreed with Environmental Health and the additional conditions and modification to hours detailed below:

The proposed conditions put forward and shown at Appendix 2 would be modified as per the applicant's submissions to ensure clarity of the conditions so that:

- condition a) of the proposed conditions be amended so that after the words 'Keep noise pollution to a minimum', the words 'where possible' are deleted;
- all mention of Challenge 21 or Challenge 25 should be Challenge 25; Challenge 21 should be deleted;
- the mention of goods delivery times should read 'between 8am and 4pm';
- any condition relating to door staff shall only apply when the premises have promoted events;
- the conditions that make reference to plastic glass wear should again only relate to promoted events;
- 'There shall be no admissions or re-admissions to the premises after 11pm';
- the conditions which reads that 'All drinks shall be served in plastic/paper/toughened glass or polycarbonate containers during the following events or occasions:' the words 'TBA.TBA hours' be deleted and replaced by the words 'All promoted events'.

Additional conditions to be attached to the licence:

1. off sales be limited to sales of Plymouth Gin in their original sealed containers, from one dedicated location within the premises;
2. by the 20 October 2019, when disposable non-glass drinking vessels are used, they must be branded so as to identify the premises;

Modification of hours:

- I. The hours for off sales be limited to take place between 10am and 9pm
Monday - Sunday

In reaching the above decision the committee considered that the above conditions and modification of hours were appropriate in order to promote the licensing objectives.

20. **Grant of Premises Licence - The Lemon Frog, New Victoria House, Weston Park Road, Peverell, Plymouth, PL3 4NU**

The Committee:

- (a) considered the report from the Director for Public Health;
- (b) heard from the applicant that:
 - they have been running a dance company for the last 16 years - mainly Latin dance. Up until 3 years ago they used to rent various premises to conduct their lessons however it was decided to buy their own premises as this would be more cost efficient;
 - three years ago they bought the premises. They operate dance lessons every night between 6pm and 10pm and rent the premises out at the weekend for private parties;
 - up until now they have been doing this by way of Temporary Event Notices, people would bring their own alcohol and DJs. The applicant believes this is what caused some of the problems complained about as people were bringing in their own cheap alcohol and therefore drinking more than they would if they had to pay for it at the bar. The DJ's they were bringing along caused problems as they were loud and when they had singers, this also caused problems. This is why they will not have live music and now have a noise limiter;
 - the only reason they want the licence is for these private parties on a Friday and Saturday (and rarely on a Sunday) as they feel it will give them more control over the noise levels and the amount of alcohol that people consume;
 - they do have their own Latin dance parties once a month, but they don't sell alcohol and don't have a bar. The only reason for the alcohol licence is for the weekend private parties;
 - in the last 2 years they have had 69 parties including their own monthly Latin dance parties;
 - there have been no problems reported to the Police;

- with regards to the complaints there have been no complaints about the dance class music. This music is not loud as the instructor is also giving instruction and there is certainly no heavy bass;
- during the first private party they ever they had complaints and so they immediately ensured the music was turned down straight away. They have always tried to keep the music level down and one bad review on their website sited that the music was too quiet;
- they have carried out sound proofing works to the premises to stop any noise egress. This is mainly works to the roof and there are further works to be done;
- they have taken sound recordings both at the back, front of his premises and then at the front of the nearest residential property. The recordings were 60dB, 50dB and 40dB respectively. At the front of the residential property as soon as a car went past the dB level rose to 60. They now have a noise limiter. They have set the levels themselves having researched the subject. They had asked Environmental Health what the appropriate level to set it at was but they had advised that there was no set dB level;
- they will work with residents to keep the noise down to make sure they are not causing any issues. However with regards to the complaint that there was music noise at around 11pm on a Monday, they said this could not have been coming from their premises as the classes end at 10pm and they are not there at 11pm. They said that they sometimes noticed music noise in the area when they close up and so the source of the problem must be elsewhere;
- the only complaints they have received recently was a couple of days after they had applied for the licence;
- with regards to noise from people leaving the premises, they said that at the end of the parties staff members go out and tell people to keep the noise down. The premises has a large car park and all patrons use it so there should not be any noise created on the street from slamming of car doors etc;
- the premises is restricted to holding 150 people. The only time they have got near that mark was last Friday when they had 140 people;
- they don't do coming of age parties (i.e. 18 or 21);
- security - They don't use SIA doorman and security is just the applicant and his son. Sometimes members of the dance classes come along to help as well but if there are only 50 people there it will only be him and his son present;
- there is no smoking allowed on site and so customers must go onto

the road but no drinks are allowed to be taken into the outside area. They provide bins and also sweep up the area after the party has finished;

- they only use poly carbonate glassware;
- save for the most recent complaint, all others were received in 2017 when they had the first few parties. The licensing officer confirmed that the Council had received one complaint when the application came in and that Environmental Health had not received any complaints since 2016;
- there are no houses next to the premises, the houses nearest to them are in Holland Road and that is where all complaints have emanated from;
- they do not want off sales on the licence and do not play music outside and so do not want that on the licence either. In addition they would like the premises to close to the public at 11.30pm. All weekday classes finish at 10pm;
- it was confirmed, in response to a question that nothing would be changing from Monday - Thursday and they would continue to operate as they had always done. Therefore they did not really need the music licence unless Christmas Eve fell on a weekday;

(c) considered the written representations of local residents, none of whom attended the hearing, as follows:

- Noise levels will be worse. Residents have experienced problems with music from the venue. For example, the loud thud of music disturbing sleep. A young child was recently kept awake until very late as a result of the music.

This was considered to be relevant under the prevention of public nuisance licensing objective.

The committee noted that in one of the representations, mention had been made of noise coming from the premises at 2258 hours on a Monday evening. The committee accepted that the applicant's classes finish at 10pm on a Monday and the noise was not coming from their premises. It also noted that the applicant was not changing any of its activities between Monday - Thursday and did not require to be licensed for music on those days. With regards to noise problems being caused by the granting of the alcohol and music licence from Friday - Sunday, the committee considered that the use of a sound limiter on the premises, as detailed in the conditions put forward by the applicant, would be more effective if the additional condition below were added to the licence as it would help the applicant properly control noise levels. With this modification and the condition agreed

with Environmental Health, it was satisfied that the licensing objective was properly promoted and that there would be no noise problems for local residents.

Condition

- The sound limiter must be set at an appropriate level in consultation with Environmental Health
- As visitors to the venue park in the street, there will be disturbance from car doors banging and inebriated people talking/shouting when leaving.

This was considered to be relevant under the prevention of public nuisance licensing objective.

The committee noted that the premises had a large car park to use and the evidence from the applicant was that patrons used this car park rather than parking on the street. Therefore the committee did not consider that any further conditions were necessary to promote the licensing objective in this regard.

- Granting the alcohol licence may increase alcohol related disorder in the area. The area is currently quiet but the licence will increase the number of people passing through.

This was considered to be relevant under the crime prevention licensing objective.

The committee noted that the premises has a capacity of 150 people and whilst there were concerns as to how patrons were to be controlled it was noted that licence was for private parties only. The premises had been operating in this way for three years and there had been no representations from the police on this point, therefore no further action was needed to promote the licensing objective.

In light of the above and following what had been said by the applicant as to what they actually wanted and needed for the licence, the licence would be granted as follows:

- Recorded music (Indoors only)
Friday - Sunday and Christmas Eve (where it falls on a weekday) - 12.00 noon until 11.30pm
Non Standard timings: New Year's Eve until 12.30am
- Supply of alcohol for consumption ON the premises
Friday to Sunday, Bank Holidays and Christmas Eve (where it falls on a weekday) - 2pm until 11.30pm
Non-standard Timings - New Year's Eve until 12.30am
- Hours premises are open to the public
Friday to Sunday, Bank Holidays and Christmas Eve (where it falls on a

weekday) - 9am - 11.30pm
Non-standard Timings - New Year's Eve until 12.30pm

Subject also to the:

- conditions contained within the applicant's operating schedule;
- conditions agreed with the Police and Environmental Health (appendices 3 and 4 in the report);
- Following condition:
The sound limiter must be set at an appropriate level in consultation with Environmental Health

In reaching the above decision the committee considered that the above conditions were appropriate in order to promote the licensing objectives.

21. **Exempt Business**

There were no items of exempt business.