

Licensing Sub Committee

Tuesday 24 September 2019

PRESENT:

Councillor Rennie, in the Chair.

Councillor Hendy, Vice Chair.

Councillors Riley and Ms Watkin (substitute for Councillor Deacon) (Fourth Member).

Apologies for absence: Councillor Deacon.

Also in attendance: Ann Gillbanks (Senior Lawyer), Marie Price (Enforcement Officer) and Helen Rickman (Democratic Advisor).

The meeting started at 10.00 am and finished at 1.20 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.

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

Agreed that Councillor Rennie is appointed as Chair and Hendy is appointed Vice Chair.

23. **Declarations of Interest**

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

24. **Chair's Urgent Business**

There were no items of Chair's Urgent Business.

25. **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.

26. **Grant of Personal Licence**

The Committee:

- (a) considered the report from the Office of the Director of Public Health;
- (b) considered the written representations of the Devon and Cornwall Police (The Police) and the representations made at the committee;

- (c) heard from the applicant;
- (d) considered information in response to questions by Members;
- (e) considered the report, representations and statutory guidance.

The Committee Agreed to grant the application of a personal licence.

PART I - PUBLIC MEETING

27. Review of Premises Licence - Union Street Mini Market, 95 Union Street, Plymouth, PL1 3NB

The Committee:

- (a) considered report from Director of Public Health;
- (b) heard representations from the Devon and Cornwall Police (the Police) Licensing Officer and Police Neighbourhood Beat Manager for the City Centre summarised as follows:
 - the absence of the named Designated Premises Supervisor Mr Dipak Dhakal and his lack of communication was having a negative impact on the licensing objectives;
 - staff at the premise had no or little knowledge of the requirements of the Licensing Act;
 - poor management was contributing to the licensing objectives being undermined;
 - the business plan of the premises was geared to selling high volume lager and cider, aimed at the most vulnerable people in the area;
 - lack of engagement in resolving problems raised by the Police licensing department;
 - the Designated Premises Supervisor (DPS) had not been proactive in the training of his staff, and had little involvement in the running of the premises;
 - the operation of the premises was having a negative impact on individuals and the greater community;
 - the premises lie within a Public Space Protection Order and cumulative impact area as adopted by the Plymouth City Council due to the amount of alcohol related crime and disorder in the area;
 - the premises were in close proximity to numerous schools, alcohol,

drug and homeless support services, residential and business properties and the operation of the premises was a contributing factor to the increased anti-social behaviour and alcohol related crime that was having a negative effect on the local community;

- the police contend that the operation of these premises was having a negative impact on the Licensing objectives of the Prevention of Crime and Disorder, Prevention of Public Nuisance and Public Safety;
- the total lack of engagement from the DPS and the lack of training to the staff, the business model based on volume sales of high ABV alcohol was without doubt having a negative impact on the licensing objectives namely the prevention of crime and disorder, public safety and public nuisance;
- in addition, the operation of the premises was therefore having a negative effect on the quality of life of both residents and local business;
- the police were of the opinion that the lack of engagement from the DPS and his apparent inability to respond to frequent requests made it impossible to work in partnership with him. The removal of the DPS would be unlikely to have an effect, as he remained the premises Licence Holder and the business would continue in a similar manner with a different DPS;
- the Devon and Cornwall Police therefore felt there was no alternative and respectfully request revoking of this premises licence;
- the Police outlined the time line of events relating to Operation Hippic in the area, and highlighted incidents of violence and anti-social behaviour in the area relating to street drinking;

(c) considered the written representation and heard from Mr Dhakal, summarised as follows:

- Mr Uresh was his Business Partner at the shop;
- he wished to apologise and he had made contact with the Police to clear up the misunderstanding about his contact address, and had met with the Police and confirmed that he would no longer be serving or selling high strength lager and cider over 6%;
- Mr Uresh was aware that he should not sell alcohol to people who were already drunk and in drink in the street;
- that Mr Uresh and Mr Dhakal have had to put up with a lot of abuse, racial and intimidating where threats had been made and

would place on record that if caught selling any high strength lager or cider from now on then there would be no choice but to revoke the licence as DPS. The committee and Police could spot check the premises at any time without notice;

- that it was incorrect to assume that the sale of high strength lager or cider from these premises had contributed to all the anti-social incidents described by the Police. There were people who came into the area who were already vulnerable to purchasing drugs in the area and they could have alcohol in their possession that was bought elsewhere. There were other shops in the area selling alcohol;
- in order to address public nuisance the premises used to open until 8pm and now due to the problems the premises close at 7pm. The early closing was linked to the nearby premises where they served food to the homeless, vulnerable people and these people gathering outside was intimidating for customers of these premises;
- they had upgraded the CCTV at the premises due to violence in the area that was associated with drug dealing and drug taking;
- Mr Dhakal had discussed the issues around challenge 25 and under age sales and were confident that they had a strict policy. He had the shop for over 12 years and this was the first time before the Committee;
- they had families that used the shop and parents were happy to send their children;
- that if the committee revoked the licence to sell alcohol this could lead to reduced trade and the decline of the shop;

(d) information in response to Members questions:

- Mr Dhakal presented photographs to the committee to substantiate his claims that other shops in the area sold high strength alcohol in single tins. Only one of these photographs was accepted as the others related to premises outside of the Stonehouse PSPO area;
- the Police confirmed that there was signage in the shop to say they would not sell single cans and that they would not serve customers who behaved badly on the street, but despite assurances given the Police said the practice to sell single cans still continued;
- Mr Dhakal did not keep a refusal book of occasions where he had refused to sell alcohol;
- Mr Dhakal said he had spoken with his staff about the implication of Challenge 25 but was unable to confirm formal training had been undertaken by any of them;

- Mr Dhakal explained the gaps in communication with the Police by saying Mr Uresh tried to deal with matters himself without involving the Police or bringing it to his attention as DPS;
- Mr Dhakal was going to introduce a refusal book, was sorry that he did not engage with the Police before but would now work with the Police and that the Police could do spot checks at any time to see that he had removed the high alcohol from the shop;

(e) The Committee –

- considered the representations received from the Police were all relevant in connection with the promotion of the licensing objectives of Prevention of Crime and Disorder, and Prevention of Public Nuisance and Public Safety;
- had regard to the statutory guidance;
- took into consideration:
 - that Mr Dhakal had tried to take measures to try to reduce the sale of alcohol to people believed to be street drinkers and by placing a sign on the fridge saying, no single cans sold. However, it was considered that these measures have had little effect;
 - that as DPS Mr Dhakal has failed to engage with the Police in the past, but that he gave an assurance to the Committee to work this the Police in the future;
 - that he was unable to satisfy the Committee that he had adequate training in place with staff so that they understand the Licensing Objectives and the sale of alcohol to underage and vulnerable and or drunk people;
 - that a 'refusal of sales' book was not maintained;
 - that these things showed a lack of compliance of the role of DPS at the premises;
 - that the premises had been open for 12 years and this was the first occasion the premises had been before the Committee.

The Committee considered that all of the things they had heard were very serious but that in light of the fact that this was the first time the premises had been the subject of a review it would not be appropriate to revoke the premises licence at this time.

Instead the Committee agreed the following steps as the appropriate action to be taken to promote the licensing objectives:

1. removal of the DPS;
2. new DPS and any future DPS to provide up to date telephone contact details to the Police and Council Licensing Officers so that regular contact can be maintained;
3. suspension of the premises licence for sale of alcohol for a period of 3 months to allow time for the implementation of the following:
 - all staff to be trained in the requirements of Challenge 25 policies
 - all staff to be suitably trained in the operating procedure for refusing service to any person who is drunk;
 - training shall be recorded in documentary form that 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;
 - a refusal book system shall be set up and maintained to record refusal of sales to any person who is drunk, or is under age, or appears to be under age. The record to be retained for at least 12 months and available for inspection at the request at all reasonable times by an authorised officer from a relevant responsible authority;
 - written evidence of completion of these requirements to be provided to the Council's Licensing Officers before the end of the 3 month suspension period – failure to provide such evidence to result in the matter being brought back before the Committee;
4. permanent conditions being added to the premises licence as follows –
 - no single cans or bottles of beer or cider will be sold;
 - no sale of high strength beers or ciders of 6.5% ABV and above.