

Licensing Sub Committee

Tuesday 4 February 2020

PRESENT:

Councillor Rennie, in the Chair.
Councillor Parker-Delaz-Ajete, Vice Chair.
Councillors Ms Watkin (substitute for Councillor Cook).

Apologies for absence: Councillor Cook.

Also in attendance: Catherine Fox (Lawyer), Fred Prout (Senior Licensing Officer), Devon and Cornwall Police Licensing representatives, Councillor Mrs Johnson (Ward Councillor) and Helen Rickman (Democratic Advisor).

The meeting started at 10am and finished at 1.30pm.

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.

45. Appointment of Chair and Vice-Chair

Agreed that Councillor Rennie is appointed as Chair and Councillor Parker-Delaz-Ajete is appointed as Vice Chair for this meeting.

46. Declarations of Interest

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

47. Chair's Urgent Business

Under this item the Senior Licensing Officer advised Members that a serious glassing incident occurred in a licensed premises in Plymouth over the weekend. Someone received a considerable injury, requiring 40 stitches. The CCTV system was being viewed as part of the ongoing investigation – officers would keep Councillor Tudor Evans OBE (Ward Councillor) updated.

48. Variation of Premises Licence - Dog and Duck, 15 Mutley Plain, Plymouth

The Committee:

- (a) considered the report from the Director of Public Health;
- (b) considered the written and verbal representations from and on behalf of the Applicant as follows:-

- i. he considers the premises to be a well-run establishment;
- ii. he has engaged well with the current police licensing officer and has done since the officer was allocated in early 2018. He believes they have a good working relationship;
- iii. he is a member of Pub Watch and attends regular meetings with the police and licensing officers with a view to fulfilling the licensing objectives;
- iv. the requirement for 2 door staff was initially imposed as a condition of licence after a series of incidents which he believes were exaggerated by the police. This has been the subject of a formal complaint, as a result of which, the police had apologised;
- v. he accepts that there was an issue with door staff at that time which had been resolved by changing door staff. He now employs, 4 nights a week, a door supervisor who is SIA trained and has 19 years' experience;
- vi. the Premises are a safe environment for people to visit. The staff are fully trained and have CCTV radios that monitor other establishments to warn of disruptive people in the area;
- vii. he does not consider that a reduction to one door supervisor will cause a return to the previous issues as the premises are now much quieter than at the time the condition for 2 door staff on Friday and Saturday nights was originally imposed. Mutley Plain as a whole is much quieter with 5 premises that have ceased to trade over the last 4 months;
- viii. as a business the premises are not immune to the harsh realities of life; the premises needs to pay its bills; the need for a second doorman puts an extra burden on the business which is unnecessary and causing financial problems; to keep the doorman he will have to cut other staff hours;
- ix. he does not consider that the reduction sought will cause any problems;
- x. he accepted that there were two licensed premises on Mutley Plain that were busy but believed that to be because they are food based premises. He understood that one of them was 18% down in trade;
- xi. whilst the capacity for the premises is 120, the number of customers no longer reaches anywhere near that figure. He stated the average number of customers after 2200hrs is between 6 and 8. They do not tend to have an influx when other premises close;
- xii. he had produced 4 photographs which he states were taken on

different times and days and which demonstrate how few customers they have late at night;

- xiii. it is accepted that there is a need for one door supervisor due to the proximity of the premises to the city centre; if the number was reduced to one and there were incidents the condition could be reinstated; it is in their interests to avoid incidents as the customers they do have would not want to drink there; they feel the safety of customers and the management of any incidents can be achieved with one door supervisor;
 - xiv. that to continue with 2 door staff as required is not sustainable for their business as the trade is no longer there. If the premises were to close 11 staff would lose their jobs;
 - xv. bringing closing time forward as an alternative option to reduce costs of the supervisor had not been considered. They stated that as long as the doors are open there is an opportunity to make money;
 - xvi. he also owns the Junction almost opposite the premises and at times they are employing 3 door staff for 2 premises;
 - xvii. it is a working man's pub and they have no issues arising from heavy drinkers who sit there for hours continuously drinking;
 - xviii. he does not consider that a reduction to 1 door supervisor on Friday and Saturday nights between 10pm and closing at 2am will be an issue and cause any negative impact on the area;
 - xix. if the supervisor needs to take a break he does so on the premises. If it was a comfort break it would only be for approximately 2 minutes. If there was an issue, the bar staff are also trained in how to manage difficult customers;
 - xx. to reduce the risk of trouble, no discounts on their drinks are offered- such as happy hour or late hour reductions. A representative on behalf of the students union had approached them and invited them to offer a discount in return for filling the pub but they had declined as they are responsible and do not wish to invite trouble;
 - xxi. door staff are more expensive than bar staff. To be permitted to reduce the number of door staff to just one on Fridays and Saturdays will provide the premises with flexibility and save them costs with no impact on public safety;
- (c) heard the written and verbal representations from the Police as follows:
- i. historically these premises were of substantial concern to the police and were frequently the location of incidents of alcohol related crime and anti-social behaviour which had led to the police requesting a

- review of the premises;
- ii. at the review in September 2017 the decision was made to attach conditions to the premises licence that there should be
 - On Fridays and Saturdays one door supervisor between the hours of 1800 to 2200 hrs and then two door supervisors between 2200 hrs and closing.
 - For the rest of the week there should be one door supervisor between 2000hrs and closing;
 - iii. immediately following the review hearing, incidents continued to occur at the premises;
 - iv. the Applicant was made aware of these further problems and to his credit engaged with the Police Licensing Department and did everything that was asked of him;
 - v. however, efforts to curtail the number of incidents over a 7-8 month period, even with the Applicant working well in partnership with them, failed to effectively end the problems;
 - vi. following further meetings and discussions with the Police the Applicant submitted an application for a minor variation on 23.08.18 to reduce his operating hours by bringing forward the closing time to 0100 hours Sunday to Thursday and 0200 hours each Friday and Saturday. This variation was agreed;
 - vii. the Applicant also agreed to conditions being included relating to the training of staff and no re-entry to the premises after 12.45 each Sunday to Thursday and after 0100hours each Friday and Saturday;
 - viii. as a result of these initiatives, there was a noticeable reduction in both alcohol related violent crime and antisocial behaviour in and around the premises and a significant reduction in the requirement for police attendance;
 - ix. in April 2019, following further discussion with the police licensing department a further minor variation to the operating schedule was agreed. As the number of incidents had decreased the requirement that one door supervisor be on duty from 1800hrs to closing on each Friday and Saturday was varied the starting time being 2000hrs. The condition that a second door supervisor be on duty from 2200 until closing each Friday and Saturday remained;
 - x. since April 2019, there has only been one incident linked to the premises that saw police attending the premises to deal with a customer in possession of drugs. This was in July 2019;
 - xi. the police attached a list of all crimes recorded at the premises from April 2017 to October 2019 which evidenced a clear reduction in

- incidents connected to the premises;
- xii. the Applicant has been very successful in dealing with the problems associated with the premises. The reduction in alcohol related crime and associated anti-social behaviour achieved since April 2019 is commendable and the Applicant deserves credit for this;
 - xiii. that the current regime is working efficiently and is clearly contributing to a safer Evening and Night Time economy in the area;
 - xiv. the premises are still opening until after midnight every day of the week and Plymouth City Council's policy sets out a recommended ratio of door supervisors of and the current condition attached to the premises licence falls within this policy;
 - xv. that a reduction to the number of door supervisors will put the safety of the public and door supervisors at risk;
 - xvi. at this moment in time, the management of the premises has achieved the correct balance to effectively engage with the four licensing objectives, as demonstrated by the improvement in the number of crimes linked with the premises recorded;
 - xvii. that they agreed with the Applicant that the premises were now well run and they have been for the past 18 months. They are now run to the standard of anywhere else due to improved management technique and levels of engagement;
 - xviii. that the premises sits within a cumulative impact area and asked the Committee to recall the evidence presented that had led to the inclusion of Mutley Plain within such an area;
 - xix. to change the balance by removing one supervisor would, in their opinion, be a retrograde step and cause the objectives of Prevention of Crime and Disorder and Public Safety to be undermined and lead to an inevitable increase of alcohol related violent crime and the associated anti-social behaviour;
- (d) considered the written and verbal representation of the Interested Party:
- i. she is councillor for the ward and represents the residents of the Mutley Plain area;
 - ii. she is also a resident of the area;
 - iii. the focus of her work is to help turn the area into a thriving retail area with mixed bars;
 - iv. Mutley Plain has a lively night time economy with late-night drinking and off-licences. It has a fusion between locals, students, street

drinkers and drug addicts with many people milling around;

- v. she did not accept that the area of Mutley Plain was quiet and was aware that there are 6 operational drinking establishments and that this number was likely to rise to 9, with 2 premises re-opening and the establishment of a brewery. These further premises are very likely to bring an increase in footfall to Mutley Plain and to these premises;
- vi. the reduction of door supervisors will not send a positive message about managing public or community safety on Mutley Plain and she is fearful of increased crime and disorder;
- vii. part of a door supervisor's role is to ensure no glasses or glass bottles are taken out to the street, as well as to escort people from the premises. She posed questions as to how a single door supervisor would manage at the peak drinking days and hours as he cannot be in 2 places at once- i.e. whilst he is busy with one issue, another could arise or when he needs to take a break;
- viii. she felt there was a real risk of glass making its way onto the street or into takeaways and issues arising there , thus causing an increase in anti-social behaviour for the police and street pastors to manage;
- ix. she believes there is a real risk that the reduction in number of supervisors would result in a return to the former problems with crime and antisocial behaviour. She asked that the status quo, which is clearly having a positive effect, is maintained;
- x. whilst today the Applicant relies on a reduced numbers of customers as the basis for their application, they could tomorrow mount a marketing campaign which results in a great influx of customers.

In reaching its decision, the committee:

- d. noted all comments made by and on behalf of the Applicant and in particular the number of times it was stated that the primary motivation for the application was as a cost cutting exercise;
- e. took into account all parts of the representations made by the Police, and in particular:
 - i. noted that they commended the Applicant for his good levels of engagement with the Police Licensing Officer since January 2018;
 - ii. that when the first attempts to address the high level of incidents did not have the desired effect he did not give up. He continued working with the police until, through 2 agreed minor variations to the conditions of licence, the present much improved position was achieved;

- iii. the Schedule of crimes connected to the Premises, was helpfully set out in sections identifying the “before” and “after review” and “after each variation”. It supports the Applicant and Police statements that the incidents of alcohol related violent crime and anti-social behaviour have not reoccurred since April 2019;
- iv. that they considered that the management of the premises had achieved the correct balance with the current conditions. To change that balance, by reducing the hours SIA trained door supervisors were required, would undermine the licensing objectives and lead to a return to the incidents of alcohol related violent crime, anti-social behaviour and police attendances;
- f. disregarded the statement made by the Interested Party that she knew 3 more premises would be opening. This was by no means certain and was not evidence that could be taken into account;
- g. took into account all remaining representations made by the Interested Party that had not been disregarded;
- h. took account of the fact that the premises falls within a Cumulative Impact Area;
- i. noted the email from Councillor Corvid but was not able to take this into account as it was not relevant to the Application

The Committee considered that all representations made by the Police were relevant under the Crime and Prevention and Public Safety Licensing objectives. The concerns all related to the need to prevent a recurrence of the levels of alcohol related violent crime and anti-social behaviour, as well as the physical safety of those on the premises and in the vicinity of the premises.

The Committee considered that the representations made by the Interested Party that were not disregarded were relevant under the Crime Prevention and the Public Safety Licensing Objectives

Decision

The Committee has considered this application on its own merits and in accordance with the statutory guidance and Plymouth City Council’s own licensing policy in reaching its decision

The Committee’s primary function is to have regard to meeting the four licensing objectives when making a decision. Its decision making today has been focussed on its duty to promote the licensing objectives and, in particular, the objectives of the prevention of crime and disorder as well as public safety.

The committee considered the motivation for the application to be one focussed on saving costs. This was stated by and on behalf of the Applicant several times. Whilst the Committee has to be sure that any condition imposed is not overly burdensome and is

capable of being met, the condition over which the variation is sought has been in place for over 2 years and has contributed to the reduction in alcohol related incidents at the premises

The Committee accepted the view of the police that the right balance has been found to resolve the issues and that to grant the variation sought would increase the cumulative impact of the area.

The Committee was not satisfied that the Applicant had demonstrated either within his proposed operating schedule or within his evidence presented today, that such a variation to the conditions of licence sought would not have a negative cumulative impact on one or more licensing objectives if granted.

The Committee has considered whether there was any appropriate modification to the variation sought that would satisfy it that there would be no negative cumulative impact on the licensing objectives. The Committee did not consider that any modification of the conditions sought would be appropriate having accepted the view from the Police that the current operating schedule had achieved the right balance and any change could upset the same.

Therefore, the committee refused the application.

This was considered to be the appropriate and proportionate action to take in this matter to ensure that the Prevention of Crime and Disorder and Public Safety licensing objective was promoted.

49. **Exempt Business**

There were no items of exempt business.