

**Democratic Support**

Chief Executive's Department  
Plymouth City Council  
Floor 3 (West) Ballard House  
West Hoe Road  
Plymouth PL1 3BJ

Please ask for Democratic Support  
Officer

T 01752 303155

E [democraticsupport@plymouth.gov.uk](mailto:democraticsupport@plymouth.gov.uk)

[www.plymouth.gov.uk/democracy](http://www.plymouth.gov.uk/democracy)

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#plymlicensing

## Licensing Sub Committee

Tuesday 18 August 2020

10.00 am

Virtual Meeting

**Members:**

Councillors Parker-Delaz-Ajete, Rennie and Riley.

**Fourth Member:**

Councillor Mrs Pengelly.

Members are invited to attend the above meeting to consider the items of business overleaf.

Please note that, due to the nature of this Committee, we may need to send 'to follow' documents which were not expected at the time of the agenda publication. These documents may be considered under part I or part II.

For further information on attending Council meetings and how to engage in the democratic process please follow this link - <http://www.plymouth.gov.uk/accesstomeetings>

**Tracey Lee**

Chief Executive

## Licensing Sub Committee

### AGENDA

**1. Appointment Of Chair And Vice-Chair**

The Committee will appoint a Chair and Vice-Chair for this particular meeting.

**2. Apologies**

To receive apologies for non-attendance submitted by Committee Members.

**3. Declarations Of Interest**

Members will be asked to make any declarations of interest in respect of items on this agenda.

**4. Chair's Urgent Business**

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

**5. Review of Premises Licence: OMG, 11 The Parade, Barbican, (Pages 1 - 12) Plymouth (under Section 53A of the Licensing Act 2003)**

The Director for Public Health will submit a report in respect of OMG, 11 The Parade, Barbican, Plymouth for the review of premises licence under Section 53A of the Licensing Act 2003.

**6. Exempt Business**

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph(s) of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

# REVIEW OF PREMISES LICENCE REPORT

Licensing Sub Committee



Date:	18 August 2020
Title of Report:	Review of Premises Licence
Lead Member:	Councillor Sally Haydon (Cabinet Member for Customer Focus and Community Safety)
Lead Strategic Director:	Dr Ruth Harrell (Office of the Director of Public Health)
Author:	Frederick Prout (Senior Licensing Officer)
Contact Email:	Licensing@plymouth.gov.uk
Your Reference:	OMG
Key Decision:	No
Confidentiality:	Part I - Official

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## Purpose of the report:

An application has been received from Devon and Cornwall Police under Section 53A of the Licensing Act 2003 for the review of the premises licence in respect of OMG, 11 The Parade, Barbican, Plymouth.

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## Recommendations and Reasons:

That Members consider this report.

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## Alternative options considered and rejected:

None.

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## Relevance to the Corporate Plan and/or the Plymouth Plan:

### Our Plan – A City to be proud of.

This report links to the delivery of the City and Council objectives and outcomes within the plan.

**A Growing City:** The Licensing Policy and system aims to provide a balance between the need to protect residents and to enable legitimate businesses to operate within a necessary and proportionate regulatory framework. This in turn makes a safer, more vibrant Plymouth to allow economic growth and opportunities for increased levels of employment.

**A Caring Council:** The Licensing Policy has put in place an appropriate framework to allow the effective control of alcohol supply and regulated entertainment to keep all members of society protected and feeling safe by focusing on prevention and early intervention. The licensing system minimise the burdens on business and to allow communities the opportunity to influence decisions.

See [Our Plan](#)

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## Implications for Medium Term Financial Plan and Resource Implications:

Not applicable

**Carbon Footprint (Environmental) Implications:**

None

**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

\* When considering these proposals members have a responsibility to ensure they give due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not.

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

**Published work / information:**

For more information please see the below links.

[Statement of Licensing Policy](#)

[Licensing Act 2003](#)

[Revised guidance issued under section 182 of the Licensing Act 2003 - April 2018](#)

**Appendices**

Ref.	Title of Appendix	Exemption Paragraph Number (if applicable)						
		1	2	3	4	5	6	7
A	Briefing report (mandatory)							

**Background papers:**

Please list all unpublished, background papers relevant to the decision in the table below. Background papers are unpublished works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based.

Title of background paper(s)	Exemption Paragraph Number (if applicable)						
	1	2	3	4	5	6	7
Application							

**Sign off:**

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Originating Senior Leadership Team member: N/A

Please confirm the Strategic Director(s) has agreed the report? N/A

Date agreed: N/A

Cabinet Member signature of approval: N/A

Date: N/A

## 1.0 INTRODUCTION

1.1 On the 23 July 2020 the licensing department received an application from Devon and Cornwall Police under Section 53A of the Licensing Act 2003 for a summary licence review in respect of OMG situated at 11 The Parade, Barbican, Plymouth.

### 1.2 Review application.

Superintendent Roy Linden submitted a certificate together with an application for the review of the premises licence to the licensing authority signed by him on 22 July 2020 stating that the premises (OMG) were associated with serious crime.

Upon receipt of the application the Licensing Authority had to give consideration as to whether it was appropriate for any interim steps to be taken pending the outcome of the review hearing. This decision had to be made within 48 hours and could only be made by members of the Licensing Committee.

The interim steps that the licensing authority was able to consider were:

- Modification of the conditions of the premises licence.
- The exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence.
- Removal of the designated premises supervisor from the licence and
- Suspension of the licence.

In accordance with review proceedings at 3.15pm on 23 July 2020 a licensing officer from Plymouth City Council attended the premises and attached a site notice to the drain pipe immediately outside of the premises which was closed at the time.

At 3.35 the same day a similar notice was displayed on the public notice board at the First Stop, New George Street, Plymouth.

The licensing Sub Committee met on 24 July 2020 to consider whether it was necessary to impose interim steps pending the review of the licence. The police and premises licence holder were present at the meeting along with their legal representatives.

Taking into account all the information available to the committee at that time, the committee decided that it was appropriate to take the following interim steps.

To modify the licence and as such the following condition would be added:

Between the hours of 11pm until close of the venue, a SIA registered door staff must staff each floor within the premises.

Although not a condition, the committee would further recommend that all staff be updated on the Ask Angela policy with evidence of this produced at the final review hearing.

Having considered interim steps the Licensing Authority must now review the licence and reach a decision within 28 days of receipt of the application.

## 2.0 LICENSABLE ACTIVITIES

These premises have the following licensable activities and timings.

### **(e) Live Music (Indoors)**

Monday and Tuesday 12 midday to 02.00am

Wednesday to Sunday 12 midday to 04.00am

Non Standard Timings. New Year's Eve 12 midday to 04.00am
<b><u>(f) Recorded Music (Indoors)</u></b> Monday and Tuesday 12 midday to 02.00am Wednesday to Sunday 12 midday to 04.00am Non Standard Timings. New Year's Eve 12 midday to 04.00am
<b><u>(g) Performance of Dance (Indoors)</u></b> Monday and Tuesday 12 midday to 02.00am Wednesday to Sunday 12 midday to 04.00am Non Standard Timings. New Year's Eve 12 midday to 04.00am
<b><u>(h) Anything of a Similar Description to that falling within (e) (f) or (g) (Indoors)</u></b> Monday and Tuesday 12 midday to 02.00am Wednesday to Sunday 12 midday to 04.00am Non Standard Timings. New Year's Eve 12 midday to 04.00am
<b><u>(i) Late Night Refreshment (Indoors and Outdoors)</u></b> Monday and Tuesday 11.00pm to 02.00am Wednesday to Sunday 11.00pm to 04.00am Non Standard Timings. New Year's Eve 11.00pm to 04.00am Hours
<b><u>(j) Supply of Alcohol for consumption ON and OFF the premises.</u></b> Monday and Tuesday 12 midday to 02.00am Wednesday to Sunday 12 midday to 04.00am Non Standard Timings. New Year's Eve 12 midday to 04.00am
<b><u>(l) Hours Premises are Open to the Public</u></b> Monday and Tuesday 12 midday to 02.00am Wednesday to Sunday 12 midday to 04.00am Non Standard Timings. New Year's Eve 12 midday to 04.00am

2.1 Conditions attached to the licence (Appendix I)

### 3.0 RESPONSIBLE AUTHORITIE

No representations.

### 4.0 OTHER PARTIES

No representations.

### 5.0 CONSIDERATIONS

5.1 In making its decision the Committee is also obliged to have regard to the application and any relevant representations, take any such steps if any as it considers appropriate for the promotion of the licensing objectives, which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

In making its decision the Committee is also obliged to have regards to:

The guidance issued under section 182 of the Licensing Act 2003 with the following paragraph's relevant to this application: 12.1 – 12.2, 12.3 – 12.9, 12.10 – 12.16, 12.17 – 12.21, 12.22 – 12.28, 12.32 - 12.34.

The Council's own Licensing Policy with the following headed paragraphs being relevant to this application: Door Supervisors (Page 12), Licensing Hours (Page 12), Designated Premises Supervisor (Page 15), Licensing Conditions (page 22), Review of premises licence (Page 24-25)

Also the representations (including supporting information) presented by all the parties.

## 5.2 The steps are :

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

Where the committee takes a step in 5.2 (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

The committee must secure that, from the coming into effect of the decision made on the determination of the review the interim steps having effect pending that determination cease to have effect (except if they become steps to be taken under 5.2 above).

## 6.0 RIGHT OF APPEAL

- 6.1 An appeal may be made to the Magistrates Court within 21 days of the licence holder being notified of the licensing authority's decision. An appeal may be made by the premises licence holder, the chief officer of police and / or any other person who made relevant representations.
- 6.2 The decision of the licensing authority following the hearing will not have effect until the end of the period allowed for appeal or until the appeal is disposed of. Any interim steps taken will remain in force through this period.



**ANNEX I - MANDATORY CONDITIONS (PREMISES LICENCE - ON & OFF SALES)****All supplies of alcohol**

1. No supply of alcohol may be made under this Premises Licence-

- (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or
- (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

2. Every supply of alcohol under the Premises Licence must be made or authorised by a Person who holds a Personal Licence.

**Irresponsible drinks promotions**

1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
  - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
  - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

3. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

**Age verification policy**

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.

**Alcoholic drink measures**

1. The responsible person must ensure that-
  - (a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

**Permitted price**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of this condition -
  - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) “permitted price” is the price found by applying the formula  $P = D + (D \times V)$  where:
    - (i) P is the permitted price
    - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - (iii) V is the rate of Value Added Tax chargeable in relation to the alcohol as if the Value Added Tax were charged on the date of the sale or supply of the alcohol;
  - (c) “relevant person” means, in relation to a premises licence -

- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any)
  - (iii) the personal licence holder who makes or authorises a supply of alcohol;
- (d) “relevant person” means, in relation to a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “Value Added Tax” means Value Added Tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (b) below applies where the permitted price given by Paragraph (b) of paragraph (2) on a day (—the first day) would be different from the permitted price on the next day (—the second day) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Door supervision**

(1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

- (2) But nothing in subsection (1) requires such a condition to be imposed-
- (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
  - (b) in respect of premises in relation to-
    - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
    - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

- (3) For the purposes of this section-
- (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and
  - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule

## **ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

### **A Regulated Entertainment**

a) Capacity -	First Floor	290
	Second Floor	90

### **B Steps taken in order to promote the four Licensing objectives**

1. a) An SIA door supervisor service will be in place after 22.00hrs during opening hours until close.
- b) An SIA door supervisor service will be in place for Bank Holiday Sundays from 15.30Hrs and 18<sup>th</sup> & 21<sup>st</sup> birthday celebrations from opening until closing.
- c) After midnight a minimum of 2 SIA registered door staff will be employed from 22.00hrs for the first 100 persons and then at a ratio of 1:100 persons thereafter.
2. Toughened or plastic glasses will be used at all times & preferably plastic on Bank Holiday weekends.
3. High resolution CCTV fully functioning, minimum of 10 cameras giving broad coverage of most areas & keeping records for 28 days.
4. Customers may only take drinks outside if covered by Street Café Licence.
5. Staff to ensure customers leave quietly including use of notices at exits directing such and last 15 minutes music to be passive.
6. All refuse, bottles etc. to be disposed of during daylight hours in order to minimize late night disturbance.
7. A limiter installed on the sound system to ensure volume of music is kept within the guidelines.
8. Sounds levels after midnight will be monitored and recorded, every 30 minutes to ensure no disruption to local residents and no volume escaping the building. The logs to be kept and made available to the responsible authorities and licensing officers for inspection.
9. a) All entrants to be ID'd both at door and at bar servery.
- b) On entry, colour coded hand stamps of different colours to be placed on both hands of both over 18's and under 18's so that they can be easily recognized by bar supervisors and door supervisors alike.
- c) Door supervisors to spot check club occupants from time to time throughout the function, in order to check hand stamps against drink content.
- d) No adult entertainment, including stripping or nudity will be performed if any under 18's are present in the venue.
- e) A copy of condition 9 to be put up at pay booth. A highlighted copy of this condition to be signed by person, or persons booking function, and retained by licensee on confirmation of booking of 18th party.
- f) An 'Operational Policy' document will be produced by Licensee/Management, outlining how 18th & 21st celebration parties will be run. This document will be in agreement with the Police Licensing Department and all staff will be advised of when this policy is operating.
10. Require ID from any persons looking under the age of 25.
11. ID must be in the form of either Passport, Photographic Driving Licence or Pass holographic approved ID.

### **18<sup>th</sup> & 21<sup>st</sup> Party's Operational Policy**

All staff must abide by these guidelines without fail during partys with age groups ranging between these years

- Door supervisors must check all entrants prior to their admittance.
- Best practice guidelines to be used: Photo Driving Licence, Portman/Citizen Card or Passport.
- Coloured stamp/UV stamp to be used on both hands of all under 18's, indicating to all staff their inability to purchase or consume alcohol.
- Normal colour stamp to be used on both hands of all over 18's.
- Anyone found not to be stamped in either format will be taken to be re-verified, re-stamped or asked to vacate the premises. **No stamp, No drink, No exception.**
- Only one drink purchase, per person, per visit to the bar except where older family members are 'Round Purchasing' for older family members.
- All drinks to be dispensed into plastic receptacles.
- Staff may continue to ask for ID at the bar if they wish to in any event.
- Door supervisors/management will randomly check patrons drink throughout the evening.

- A bona fide guest list will be requested prior to party date.
- Anyone under the age of 18 seen drinking in the vicinity of the premises will not be permitted to enter.
- Anyone under the age of 18 turning up to attend the event (whether invited or not) who is obviously under the influence of alcohol, will be denied access.
- Nobody to take drinks of any kind outside the premises if having a smoking break.
- Signs pointing out the offence of purchasing for under-aged will be prominently displayed.
- All customers will be warned about the seriousness of purchasing for under-age drinkers.
- A copy of this policy will be given to party organiser on receipt of booking.

### **C Conditions agreed with Environmental Health Authority**

After 02:00 hrs until 08:00 hrs

1. Total sound containment within the premises.

### **ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

2. The occupancy capacity shall be reduced to 200 on Monday's to Thursday's.
3. Signs will be provided in prominent locations indicating free drinking water available on request.
4. At times when premises are open after 00.00hrs a minimum of 2 SIA registered door staff will be provided for the first 100 patrons and one additional door staff for each 100 persons thereafter.
5. Existing conditions to be reinforced by a "challenge 25" policy.
6. During opening hours the management will control the exit of customers to only allow exist from the premises via doors to The Parade (except in the event of emergency).
7. The outside smoking area should be limited to a maximum of 20 people at any one time and this is to be controlled and regularly monitored by the management.
8. To keep the bay windows of the premises closed to avoid noise breakout
9. To publish a contact number which can be used by residents to report or raise concerns that they have about the premises
11. Amend existing condition 8 (Annex 2) to say "Sound levels after midnight will be monitored, and recorded, every 30 minutes to ensure no disruption to local residents and no volume escaping the building. The logs to be kept and made available to the responsible authorities and licencing officers for inspection."

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