

VARIATION OF PREMISES LICENCE NOTICE REPORT

Licensing Sub Committee



Date:	04 February 2020
Title of Report:	Variation 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:	PPS/LIC/Variation/Dog & Duck
Key Decision:	No
Confidentiality:	Part I - Official

Purpose of the report:

An application has been received from Andrew Kelland in respect of the Dog & Duck, 15 Mutley Plain, Plymouth for the Variation of a premises licence under Section 34 of the Licensing Act 2003.

Recommendations and Reasons:

That Members consider this report.

Alternative options considered and rejected:

None.

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](#)

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)							X
1	Licence Conditions							X
2	Police representation							X
3	Councillor representation							X

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							X

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: Date.											
Cabinet Member signature of approval: [N/A] Date: Date.											

1.0 INTRODUCTION

1.1 On the 21 November 2019 the licensing department received an application from Andrew Kelland for the Variation of a Premises Licence under Section 34 of the Licensing Act 2003 in respect of the Dog & Duck situated at 15 Mutley Plain, Plymouth.

1.2 Details of variation

Current Licensable Activities	Variation Application
<p><u>(f) Recorded Music</u> (Indoors) Sunday to Thursday 09.00am to 01.00am Friday and Saturday 09.00am to 02.00am Non Standard Timings. New Year Eve Midnight to Midnight (24 hours)</p>	No Change
<p><u>(i) Late Night Refreshment</u> Sunday to Thursday 11.00pm to 01.00am Friday and Saturday 11.00pm to 02.00am Non Standard Timings. New Year Eve Midnight to Midnight (24 hours)</p>	No Change
<p><u>(j) Supply of Alcohol for consumption ON the premises.</u> Sunday to Thursday 09.00am to 01.00am Friday and Saturday 09.00am to 02.00am Non Standard Timings. New Year Eve Midnight to Midnight (24 hours)</p>	No Change
<p><u>(l) Hours premises are open to the public</u> Sunday to Thursday 09.00am to 01.00am Friday and Saturday 09.00am to 02.00am Non Standard Timings. New Year Eve Midnight to Midnight (24 hours)</p>	No Change

1.3 Variation application

The nature of the proposed variation is as follows;

Vary the premises licence at Annex 3 condition 1 (Appendix 1)

To remove the requirement for a second door supervisor from 22:00hrs until closing time on Friday and Saturday evenings.

1.4 Representations have been received in respect of this application.

1.5 **Cumulative Impact Policy**

This application does fall within an area to which the Cumulative Impact Policy applies and creates a rebuttable presumption that applications for new licences or variations to existing ones which are likely to add to the existing cumulative impact will normally be refused unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives if the application were granted. However before the Licensing Authority can lawfully consider giving effect to this policy there must be a relevant representation from either a responsible authority or an interested party referring to information which was before the Licensing Authority when this special policy was developed.

2.0 **RESPONSIBLE AUTHORITIES**

- 2.1 *Devon & Cornwall Police* – has made representation relating to the prevention of crime and disorder (Appendix 2)
- 2.2 *Environmental Health* – no representations
- 2.3 *Devon & Somerset Fire & Rescue Service* – no representations.
- 2.4 *Trading Standards* – no representations
- 2.5 *Planning Officer* - no representations.
- 2.6 *Child Protection* – no representations
- 2.7 *Health & Safety Executive* – no representations.
- 2.8 *Health Authority (ODPH)* – no representations.
- 2.9 *Licensing Authority* – no representations

3.0 **OTHER PARTIES**

One representation has been received that has been attached to this report. (Appendix 3)

4.0 **CONSIDERATIONS**

4.1 The Committee is obliged to determine this application with a view to promoting 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 regard to:

- the guidance issued under section 182 of the Licensing Act 2003 with the following paragraphs relevant to this application: 1.2 – 1.5, 1.16 – 1.17, 2.1, 2.3, 2-7-2.8, 8.72-8.73 9.3, 9.11-9.12, 9.31 - 9.33, 9.38 – 9.40, 9.42 – 9.44 ,10.10, 14.24, 14.28

- the Council's own Licensing Policy with the following headed paragraphs being relevant to this application: Door Supervisors (Page 12), Licensing conditions (page 22), Cumulative Impact Assessment (page 27), Appendix I – Special Policy – Cumulative Impact Assessment Page 33 – 34) and
- the representations (including supporting information) presented by all the parties.

The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

1. Modify the conditions of the licence
2. Reject the whole or part of the application;

...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.

The Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**Review held on 12 September 2017**

Conditions added to the Premise Licence at the hearing of 12/09/17

1. The PLH shall provide door supervision on the following basis:
 - One door supervisor between the hours of 18:00hrs to 22:00hrs and then two door supervisors between the hours of 22.00hrs until closing time on Friday and Saturday evenings.
 - One door supervisor between the hours of 20:00hrs until closing time for the rest of the week
2. The PLH shall provide training on the following basis:
 - All staff to be fully trained for their job functions in the operating standards required under the Licensing Act 2003 to include dealing with disorderly behaviour and evidence training to be recorded in documentary format and must be provided to council licensing officers as soon as possible and no later than three months from now
 - Training will be repeated at least every six months thereafter and will be recorded in documentary format that will be kept at the premises and be available for inspection at the time of request by a member of any relevant authority. The records will be retained for at least 12 months.

Prout, Frederick

From: McINDOE David 55474 <David.MCINDOE1@devonandcornwall.pnn.police.uk>
Sent: 27 November 2019 08:17
To: Prout, Frederick
Subject: Application to vary premises licence Dog and Duck

Dear Mr Prout,

The Devon and Cornwall Police have received an application from Mr Kelland to amend the premises licence of the above premises to change the condition relating to the requirement for two doormen from 2200hrs on Friday and Saturday Nights. He wishes to reduce the number to one. 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.

The premises appeared before the Plymouth City Licensing Committee on 12th September 2017 where the determination was made to attach the following conditions to the Premises Licence and are contained in Annex 3. The PLH shall provide door Supervision on the following basis.

- One door supervisor between the hours of 1800 to 2200 hours and then two door supervisors between 2200hrs and closing time on Friday and Saturday evenings
- One door supervisor between the hours of 2000hrs and closing time for the rest of the week.

The Dog and Duck by Mr Kellands own admission is s spit and sawdust establishment that caters for heavy drinking individuals, at this moment in time the police believe the management has achieved the correct balance to effectively engage with the four licensing objectives,

To change this balance by removing one door supervisor would in our opinion undermine the licensing objective of The Prevention of Crime and Disorder and inevitably lead to an increase of alcohol related violent crime and the associated Anti- Social behaviour

Under these circumstances the Devon and Cornwall Police cannot agree to this applications and will make representations to present our concerns

Kind Regards

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Bradley, Nikki

From: Johnson, Andrea
Sent: 02 December 2019 15:12
To: Licensing
Cc: Kelly, Nick
Subject: Objection to Dog and Duck application

I write to object to the application from the Dog and Duck on Mutley Plain seeming permission to reduce its door staff.

Mutley Plain has a lively night time economy with late-night drinking and off licences. I do not think reducing the door staff sends a positive message about managing public or community safety on Mutley Plain. I am fearful of increased crime and disorder.

I object to the application on grounds of safety.

Clr Andrea Johnson
Compton Ward

Tel- 07825034809

