

## **Licensing Sub Committee**

**Tuesday 19 April 2022**

### **PRESENT:**

Councillor Jordan, in the Chair.  
Councillor Hendy, Vice Chair.  
Councillor Corvid.

Also in attendance: Sharon Day (Lawyer), Marie Price (Senior Enforcement Officer), Catherine Macdonald (Enforcement Officer), Ian Wills (Lawyer – observing) and Jake Metcalfe (Democratic Advisor).

The meeting started at 10.00 am and finished at 12.00 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.*

### 30. **Appointment of Chair and Vice-Chair**

The Committee agreed that Councillor Jordan was appointed as Chair, and Councillor Hendy was appointed as Vice Chair for this particular meeting.

### 31. **Declarations of Interest**

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

### 32. **Chair's Urgent Business**

There were no items of Chair's Urgent Business.

### 33. **Grant of Premises Licence - Stoke Grill, 62 Devonport Road, Plymouth PL3 4DF**

The Committee:

1. considered the report from the Director of Public Health, including the guidance and policy referred to therein;
2. heard from the applicant as follows:
  - with regards to litter they intend to take responsibility for any litter or rubbish belonging to their shop, collect it and put it in a bin. They will put extra bins out at the entrance and inside the shop and will be putting up a notice and asking customers to put all litter in those bins. Their staff will take responsibility to collect them around the shop and street;

- noise: the staff do not make noise as they are all busy preparing food, cleaning and packing. They have given a note to all drivers not to take calls during work. If it is an emergency they can take the call inside the car;
- they will stop drivers parking or blocking the 'car park';
- they do not think that the drivers will cause a problem and will do their best to make everything smooth and quiet. The staff do not use their cars to shop or return. The number of delivery drivers will be reduced with only one driver expected to work during that time. The applicant confirmed during questioning that the busy time of operation for deliveries was prior to 9pm and, based on the operation of a nearby Kebab shop, he did not consider that more than one driver was needed. He considered that the business would be more based on walk-ins at the time of night during which the licence would operate;
- all food waste will be put inside bags and put in bins to address the smell of bins. The waste will be collected weekly by a company;
- they will clean the front of the shop of any customer vomit;
- they will make sure that their customers do not make a noise or act in an anti-social manner in their shop. They will try to do everything safely and follow all the rules and laws;
- Stoke Village is a big area and is crowded with a lot of pubs around it;
- there is only one additional take away shop open and that is next door to this premises;
- the applicant's shop opened approximately 20 years ago and he had run the business for the last 12 months. Because of the length of time the shop had been open he felt he should have priority for having a later licence. There are already premises open until 2am in the area otherwise he would not have thought of applying for the licence;
- the first time he had spoken to the neighbour who had made a representation was yesterday. She had not spoken to him directly about the problems being caused by his delivery drivers prior to that. The problems she had reported to the drivers or other members of staff had not been communicated to him. Now he was aware of the problem he would sort it and would only have one delivery driver working if the licence was granted. Existing problems would stop as he would start an arrangement whereby he called the delivery drivers one by one to collect their orders;
- he has changed his waste collection company and they now collect once a week. He has two bins now which is plenty for his waste. They are always kept locked. He did not accept that there was any waste

overflowing from his bins and said the waste belonged to someone else;

- the operational noise was likely to be from the fan and if there were noise problems from the operation of the business, he would change the system of work. He said that the back door is locked and he will tell drivers not to pick up from the back lane.
3. heard and considered both written and verbal representations from other parties as summarised below:
- **Litter:** There would be an increase in waste and litter if the licence was granted and the area already has a huge problem with overflowing bins and commercial packaging being fly tipped. One resident compared it to be like living on a rubbish tip and that owners of the takeaways take no responsibility for the rubbish their businesses create. They said the filth is abhorrent, with an awful smell which attracts seagulls and rats. Each morning (and particularly at weekends) there was a shameful amount of takeaway paper and trays discarded on the street. Vomit from the takeaways on streets and doorways is a regular occurrence.

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

Whilst the committee noted that the applicant had said that he would take steps to clean up around his premises the problem was likely to be more widespread than that. The applicant had accepted that the business will mainly be walk-ins. As such this would increase footfall and the logical progression was that an increase in people buying takeaway food at that time of night had the potential to increase littering in the surrounding area as people eat their food and make their way home discarding their waste as they go. This was especially so when considering that the granting of the licence would effectively create a further 21 hours trading in a seven day period and, based on the number of hours the applicant currently trades, equates to almost another three days of trading. The committee were therefore satisfied that this would add to an existing problem with litter in the area and would undermine the prevention of public nuisance licensing objective. In light of this the committee considered what steps could be taken to address these concerns and ensure the promotion of the licensing objective. The committee did not consider that there were any suitable conditions that could be imposed to prevent littering being a problem, neither could the hours of operation be reduced because if the area already had a problem with litter then the addition of anything that would bring additional litter issues would undermine the licensing objective.

- **Delivery Driver Noise:** There will be an increase in noise and disruption caused by delivery drivers using lanes between residential

properties and reversing and driving the wrong way at speed down one way streets. Additionally, there is an existing noise created from takeaway drivers during the evening from door slamming, drivers shouting on their phones whilst waiting for their next delivery and keeping their engines constantly running. If this were to continue into the early hours of the morning it would be worse for residents.

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

The committee noted that the applicant would only be using one delivery driver if the licence were granted however were concerned that if the business demands increased it was entirely possible that he would want to employ more drivers. Given that residents were already experiencing problems driver noise with the current times of operation it was likely that this issue would continue if the licence were granted. However, the committee considered that if the licence were to be granted the promotion the licensing objective could be upheld by the imposition of a condition preventing deliveries during the licensing hours and limiting the business to walk-ins only.

- **Parking:** Residents reported existing problems with parking in the area with problems being enhanced with the 15 - 20 minutes wait to pick-up and collect takeaways. Service lanes to residential premises are often blocked by anything up to 6 drivers, blocking garages. It was said that the only entrance to a block of apartments was at the bottom of the lane and residents have constantly and repeatedly asked them to park in a more convenient place for everyone. There was a concern over access to residential properties by emergency service vehicles if the opening hours are extended. There was also a report of drivers being abusive when being asked to move so residents can access their homes. The attitude of some drivers is abusive and angry and the owner is frightened to upset them.

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

The committee acknowledged that this was a potential problem if the licence was granted and had the potential to undermine the licensing objective. The committee considered that whilst aggressive and abusive drivers was a matter for the police it was also something that could be addressed by the applicant as these were drivers connected with his business. However, with regards to the parking issues mentioned, it was considered that those concerns could be addressed by the imposition of the above condition relating to driver noise.

- **Operational Noise:** The continuation of operational noise (pans clanging, bins being emptied, rear doors being opened and closed) will be disruptive to nearby residents if the application is granted.

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

The committee noted that the applicant had said that he would change his system of work if there were problems. However, there appeared to be an existing problem with noise from the premises and the addition of another three hours per day into the small hours of the morning in a residential area would undermine the licensing objective. Whilst it was possible to impose a condition to ensure that noise from the kitchen did not escape during licensing hours by requiring the door to be kept shut, the committee did not consider that there was any way to control the inevitable noise which would be associated with closing up each night with the requirement to take out the waste and empty the bins. This would be noisy and such noise would travel further at night. Given the hours of operation of a late night refreshment licence the hours could not be reduced to address the problem as it would still occur during time sensitive hours in a residential area.

- **Noise from Customers:** There was a concern that being open to 2am every day would disturb residents with people gathering at the premises until closing. This could impact on children and young people's sleep and affect schooling and would affect the quiet enjoyment of the area in general.

This was considered to be relevant under the licensing objective of prevention of public nuisance and protection of children from harm.

The applicant had said that the business would mainly be operating as walk-in for the hours of operation of the licence, and the committee accepted that the provision of late night food could mitigate the effect of drunkenness. However, the committee accepted that there was a real concern for noise from patrons of the premises until 2am every night and as such this would undermine the licensing objectives. The committee did not consider that there were any conditions which could be imposed which would address these concerns. Whilst signs could be put up to request patrons behave in a quiet manner the committee did not consider that this would be effective in preventing noise from customers occurring given that people would be congregating whilst waiting for food and would naturally be noisy. Again, given that the hours of operation of a late night refreshment licence are in a time sensitive period in a residential area, a reduction in hours would not have any effect either.

4. disregarded the following information contained in the responses to notice of hearing given by other parties as they were not raised in the original representations and were not therefore, relevant representations:
  - 'Lightening (sic) in the rear lane' - concerns were raised over the street light having been removed since the owner of the premises took over.

It was felt it made the area unsafe and a place for people to conduct their drug habit in the lane;

- overflowing bins for the premises, in a disgusting state, sometimes dangerous to walk in the lane due to spilt oil, no attempt by owners to clear up waste;
- cooking smells - offensive - residents keep windows shut during business hours to prevent homes stinking;

5. disregarded the following from the representations as they were not relevant to the licensing objectives:

- Stoke is a conservation area
- an 8 hour trading period is sufficient in a residential period and there is nothing to gain for residents but more aggravation, disruption and inconvenience;
- there is already one takeaway business operating these hours which is sufficient to satisfy demand and there is no demonstrated need for the extension to hours;
- the waste arrangements for the premises as this was dealt with under other legislation;

Having considered the representations, the application and all that had been said by the applicant, as set out above, the committee did not consider that any conditions would be sufficient to address the concerns relating to litter and noise, neither would altering the hours during which the application could operate have any effect, because the hours for late night refreshment commence during a time sensitive period for a residential area. Therefore, the committee considered that it was appropriate and proportionate for the licence to be refused on the basis that granting it would undermine the licensing objectives of prevention of public nuisance and prevention of children from harm. Whilst it noted that this application fell within a Cumulative Impact Assessment area, none of the representations raised matters which were relevant to the issues that were before the authority when that special policy was adopted and it therefore did not form part of the committee's considerations when deciding on this matter.

#### 34. **Exempt Business**

There were no items of exempt business.