

CITY OF PLYMOUTH

Subject: The Dairy, 25 Bretonside, Plymouth.
Variation of Premises Licence

Committee: Licensing Sub Committee (Miscellaneous)

Date: 8 December 2009

Cabinet Member: Councillor Peter Brookshaw

CMT Member: Director of Community Services

Author: Peter Clemens
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Contact: (01752) 305465

Ref: ERS/LIC/PREM

Part: I

Executive Summary:

An application has been received from Mr Alex Warner in respect of The Dairy, 25 Bretonside, Plymouth for the variation of the premises licence under Section 34 of the Licensing Act 2003.

Corporate Plan 2009- 2012:

This report links to the delivery of the corporate improvement priorities. In particular:

1. Informing and involving residents.
 2. Providing more and better culture and leisure activities.
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Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

Not applicable.

Other Implications: eg. Section 17 - Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

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.

Recommendations and Reasons for recommended action:

That Members consider this report.

Alternative options considered and reasons for recommended action:

None.

Background papers:

Application.
Licensing Act 2003.
Guidance issued under Section 182 Licensing Act 2003.
Council's Licensing Policy.

Sign off:

Head of Fin		Head of Leg		Head of HR		Head of AM		Head of IT		Head of Strat Proc	
Originating CMF Member											

1.0 BACKGROUND

1.1 On the 22nd October 2009 the licensing department received an application from Mr Alex Warner in respect of The Dairy 25 Bretonside, Plymouth for the variation of an existing licence under Section 34 of the Licensing Act 2003.

1.2 Details of variation

Current Licensable Activities	Variation Application
<p><u>(e) Live Music</u> (Indoors)</p> <p>Hours Mon to Sun 11.00hrs to 23.00hrs</p>	<p><u>(e) Live Music</u> (Indoors)</p> <p>Hours Mon to Sun 11.00hrs to 02.00hrs</p> <p>Non Standard Timings New Years Eve 24hours</p>
<p><u>(f) Recorded Music</u> (Indoors)</p> <p>Hours Mon to Sun 11.00hrs to 23.00hrs</p>	<p><u>(f) Recorded Music</u> (Indoors)</p> <p>Hours Mon to Sun 11.00hrs to 02.00hrs</p> <p>Non Standard Timings New Years Eve 24hours</p>
<p><u>(h) Anything of a Similar Description to that falling within (e) (f) or (g)</u> (Indoors)</p> <p>Hours Mon to Sun 11.00hrs to 23.00hrs</p>	<p><u>(h) Anything of a Similar Description to that falling within (e) (f) or (g)</u> (Indoors)</p> <p>Hours Mon to Sun 11.00hrs to 02.00hrs</p> <p>Non Standard Timings New Years Eve 24hours</p>
<p><u>(i) Provision of Facilities for Making Music</u> (Indoors)</p> <p>Hours Mon to Sun 11.00hrs to 23.00hrs</p>	<p><u>(i) Provision of Facilities for Making Music</u> (Indoors)</p> <p>Hours Mon to Sun 11.00hrs to 02.00hrs</p> <p>Non Standard Timings New Years Eve 24hours</p>
<p><u>(k) Provision of facilities for entertainment of a similar description to that falling within (i) or (j)</u> (Indoors)</p> <p>Hours Mon to Sun 11.00hrs to 23.00hrs</p>	<p><u>(k) Provision of facilities for entertainment of a similar description to that falling within (i) or (j)</u> (Indoors)</p> <p>Hours Mon to Sun 11.00hrs to 02.00hrs</p> <p>Non Standard Timings New Years Eve 24 hours</p>

	<p><u>(l) Late Night Refreshment</u> (Indoors)</p> <p>Hours Mon to Sun 23.00hrs to 02.00hrs</p> <p>Non Standard Timings New Years Eve 24 hours</p>
<p><u>(m) Supply of Alcohol for consumption ON the premises.</u></p> <p>Hours Mon to Sun 11.00hrs to 23.00hrs</p>	<p><u>(m) Supply of Alcohol for consumption ON the premises.</u></p> <p>Hours Mon to Sun 11.00hrs to 02.00hrs</p> <p>Non Standard Timings New Years Eve 24 hours</p>
<p><u>(o) Hours premises are open to the public</u></p> <p>Hours Mon to Sun 11.00hrs to 23.00hrs</p>	<p><u>(o) Hours premises are open to the public</u></p> <p>Hours Mon to Sun 11.00hrs to 02.00hrs</p> <p>Non Standard Timings New Years Eve 24 hours</p>

1.3 Variation application.

The nature of the proposed variation is;
To extend the hours of operation.

1.4 Representations have been received in respect of this application.

1.5 Cumulative Impact Policy

This application does not fall within an area to which the Cumulative Impact Policy applies.

2.0 RESPONSIBLE AUTHORITIES

2.1 Environmental Health – have made representation in relation to the Prevention of Public Nuisance and Public Safety (Appendix 1). The applicant has agreed to include all the conditions on the licence therefore the representation has been withdrawn.

2.2 Devon & Cornwall Constabulary – have made representation in relation to Prevention of Crime and Disorder (Appendix 2). The applicant has agreed to include this condition on the licence therefore the representation has been withdrawn.

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.

3.0 INTERESTED PARTIES

2 - letters of representation have been received from residents living within the vicinity of the premises.

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 and the Council's own Licensing Policy and the representations (including supporting information) presented by all the parties.

The Committee must take such of the following steps as it considers necessary 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 necessary in order to promote the licensing objectives.

Memorandum



From: Public Protection Service Manager
To: HEAD OF LICENSING SECTION
FAO: PETE CLEMENS
Date: 10th November 2009
Our Ref: EH.757895
Investigating Officer: Stephen Crooks
Extn: 4851

LICENSING ACT 2003
ENVIRONMENTAL HEALTH REPRESENTATION

Premise: The Dairy, 25 Bretonside , Plymouth, PL4 0BB

Name of Licensee: Alex Warner

Type of Application: ~~Late Night Refreshment/Alcohol (On/Off/Both)~~ Entertainment Licence
(delete as necessary)

Report Prepared By: Stephen Crooks

Recommendations

- ~~1. That this department has no comments regarding the Application.~~
2. This department would like to make the following representation;

LICENSING ACT 2003
ENVIRONMENTAL HEALTH REPRESENTATION

Schedule Ref: EH/745846

Name: The Dairy

Address: 25 Bretonside , Plymouth, PL4 0BB

Report By: Stephen Crooks

Date of Inspection: 02/11/09

The Text in bold are the conditions that this department will be putting before committee to be included in your operating schedule.

The text in italics is for your information.

Public Nuisance

1. **A winding down period shall be established at least 30 minutes before closing time to create a mood change.**
(To have a calming effect on the patrons prior to leaving to reasonably control the quiet manner in which patrons leave the vicinity. Typically, music will be turned down and lights may be turned up.)
2. **In the absence of the DPS you shall have a nominated deputy in place who understands the restrictions of the premises licence. A nominated deputy will be empowered to address any problems identified by a representative of a Responsible Authority.**
(The nominated person shall have ultimate control of music/ sources of noise and should have an understanding of their responsibility to reasonably uphold the requirements of the four licensing objectives.)

Public Safety

1. **Door staff who are suitable trained shall be provided on the premises during busy periods to reduce the potential for overcrowding.**
(Door staff should be registered with the Security Industry Authority. Door staff will also be able to ensure that doors remain closed during regulated entertainment in order to further promote the licensing objective to prevent a public nuisance.)

Licensing Act 2003
Supporting Information for Committee Hearing following the Environmental
Regulation Service Representation

Premise Name: The Dairy

This department has made representation based on the following information.

This premises is situated in an area with mixed residential and commercial use. Complaints from local residents currently exist against this establishment and others in the vicinity, although no major problems have yet been identified.

The conditions requested designed to help further control the likely affect of extending the hours of operation to include regulated entertainment. They are intended to work in harmony with those conditions already situated on the premises licence.

With reference to the Dairy and the application to vary a premises licence, the police wish to make the following representation:

Prevention of Crime and Disorder

Whenever the premises remains open after midnight on Friday and Saturday nights a minimum of two door staff will be employed from 2300hrs until close of business.

Kind regards

Fred Prout

*Devon and Cornwall Constabulary
Alcohol Related Crime Reduction (Licensing) Officer
Charles Cross Police Station
Hampton Street
Plymouth
PL4 8HG*

Tel:01752 720464

APPENDIX 3

Discovery Wharf
Sutton Harbour
Plymouth
PL4 0RB

Tel: 01752

Head of Environmental Services
Environmental Regulation Services
Civic Centre
Plymouth
PL1 2EW

20th October 2009

Ref: The Dairy, Bretonside

Dear Sir

I refer to the application for a License to be granted to allow the sale of alcohol in the above premises from until 2.00am. I object in the strongest possible terms to this application.

The area of Sutton Harbour/Bretonside now a predominantly residential area already well supplied with a great number of restaurants/bars. The noise, loutish behaviour, shouting, swearing, vomiting etc as people move in and out of these establishments already being experienced is extremely intrusive and to add yet another layer (to 2.00am) is not desirable or necessary and I strongly urge you to consider the entitlement of the many people living in the area to have some quiet enjoyment of their residency.

I hope that for once the planners might consider the well being of the residents living in proximity to these premises, surely there are already more than enough establishments in the area providing this sort of 'entertainment'.

Yours faithfully

APPENDIX 4

Discovery Wharf
15 North Quay
Plymouth
Devon
PL4 0RB

03 November 2009

Enviromental Services
Department of Community Services
Civic Centre
Plymouth
PL1 2AA

Dear Sir/Madam

Re 2am Licence for the 'Dairy' Bar & Nightclub Bretonside

I would like to object to the proposed application for a 2am Licence Extension for the above premises, on the grounds that it will cause noise disturbance at a very late hour.

People congregating outside the premises to smoke and drink will also impact on our ability to get a good night's sleep.

I have been a resident at Discovery Wharf for the last six years. There are more and more of these late night establishments operating in the area. Late night revellers are generally very noisy and have no respect for local residents. The increase in vehicle volumes also add to the general disturbance and noise.

Hoping you will be sympathetic to the above comments and reject this application.

Yours faithfully