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Licensing Sub Committee (Miscellaneous)

Tuesday 13 April 2010

PRESENT:

Councillor Mrs Bowyer, in the Chair.
Councillor M Foster Vice Chair.
Councillor Delbridge.

Apologies for absence: Councillor Lock

The meeting started at 11.00 am and finished at 5.30 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.

61. APPOINTMENT OF CHAIR AND VICE-CHAIR

Resolved that Councillor Mrs Bowyer be appointed as Chair, and Councillor Michael Foster be appointed as Vice Chair.

62. DECLARATIONS OF INTEREST

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

63. CHAIR'S URGENT BUSINESS

There were no items of exempt business.

64. VARIATION OF PREMISES LICENCE - BAR 360 (PREVIOUSLY THE PIT), 34 DRAKE CIRCUS, PLYMOUTH

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) considered the written representations from the responsible authorities;
- (iii) heard from the applicant and his witnesses that –
 - following a meeting with Environmental Health on 12 March 2010 the operating schedule had been extended to include the following;
 - the style and mood of any music or entertainment at the premises was to be classified with the emphasis on background music;
 - there would be no music after midnight feeding into the outside areas, and even up to that period would be very light background music;
 - after 4 am they wished to take the music down a further notch so this was virtually non-existent/very low background level to bring the atmosphere to be more conducive and an enhancement of a safer environment;
 - to ensure a strong winding down period they would accept a no entry after 5am, which would allow the premise to wind down in an orderly manner and fashion;

- there would be no sale of alcohol during the last half hour of operation time of the premises. The only beverages accessible would be soft drinks including tea and coffee, which would also enhance the wind down of the premise;
- they were willing to implement any further minor proposals that would help this application go through successfully;
- it was a very small bar with a capacity of 50 persons and it was not envisaged that it would cause any problems to the surrounding areas and later opening would actually spread the capacity of the university business which was targeted in a more orderly manner.

(iv) heard from a representative of Environmental Health that –

- a representation had been made relating to the prevention of public nuisance and public safety licensing objectives;
- the premise was situated within a cumulative impact area;
- the concentration of licensed premises remained consistent in this area, and was strongly associated with the student night-time scene, predominantly operating as vertical drinking establishments;
- the applicant had not been able to demonstrate within their operating schedule, how there would be no negative cumulative impact on one or more of the licensable objectives;
- the operating schedule failed to address the potential impact from extended licensable activity at the premises, and consideration had also not been given to the potential impact of patrons departing at close of business;
- there were cumulative effects of increased music activity, and noise and litter generated from patrons smoking in the outside designated area which had not been considered;
- the current terminal hours for licensable activities at this premises in their opinion contributed towards a staggered dispersal scheme, reducing the potential impact of persons under drink leaving the vicinity during the early hours of the morning;
- businesses and persons living in the vicinity (including directly above the premises) were likely to be affected by the proposed application. It was also of concern that people living in the vicinity of the North Hill, Mutley and Greenbank areas would also be further inconvenienced by noise from large numbers of patrons moving between venues, food businesses, ATMs, taxi stands and again when travelling home;
- residents of Mutley, North Hill and Greenbank had already raised complaints over the numbers of people returning home during early hours of the morning, citing complaints of noise from people shouting and singing, vomit and food waste littering the streets, taxis engines idling, violence and other incidents of crime and disorder;
- the Authority participated in 'Week of Action' between 14 - 16 May 2009 as part of a joint operation with the Police. This was in response to the continued concerns of residents living in the North Hill and Greenbank area. At that time it was noted that there were a high number of people moving

through those areas. Specifically the Police identified that music noise reduced significantly after 3 am;

- a complaint had recently been received concerning a nearby licensed premises. The complaint alleged noise disturbance from music at the venue, and from patrons making noise when using the smoking area late at night;
- the potential effect of increased noise activity in the vicinity would create further cumulative impact that may continue to impinge on both businesses and domestic properties in the area, which supports the Authorities recommendation to refuse the application.

(v) heard from a representative of Devon & Cornwall Police that –

- information had been provided with regard to the licensing objectives of the prevention of crime and disorder and prevention of public nuisance;
- liaison had taken place with the applicant's representative and they had considered the letter received that specified some additional intentions;
- the application did not provide sufficient detail in the operating schedule to allow a realistic assessment of the impact that the application would have on any of the four licensing objectives;
- the premise was situated within an area that was subject to Plymouth City Council's cumulative impact policy and as such they referred to the evidence produced by the police that supported the introduction of this policy;
- police records show crime levels and anti social behaviour in the Greenbank and Mutley area including North Hill and Tavistock Place were increasing with most incidents taking place between 8pm and 7am;
- the application failed to demonstrate how it would not negatively impact on one or more of the licensing objectives;
- 175 criminal offences were committed within the North Hill and Tavistock Place areas of Plymouth for the period 1 September 2009 to 28 February 2010;
- 147 of these offences occurred between 8pm and 6.59am;
- the majority of these crimes occurred between 8pm and 6.59am and accounted for 30.1% of all the crimes within the beat area. The beat area covered the cumulative impact area as well as the remainder of the Greenbank/Mutley Plain areas;
- the research showed crime recorded between 8pm and 6.59am accounted for 84% of all the crimes within North Hill and Tavistock Place;
- further details had been provided on Police crime statistics and the Police recommended the refusal of the application.

Having considered the evidence, Members were satisfied that these premises were well managed and potential noise within the premises would be sufficiently contained. However, Members having heard from representatives from the Devon & Cornwall Police and Environmental Health Department

believed that the evidence was such that the granting of this application would add to the existing cumulative impact with respect to the licensing objectives of the prevention of crime and disorder and prevention of public nuisance.

The applicant had been unable to satisfactorily demonstrate how there would be no negative cumulative impact on these licensing objectives from patrons entering and leaving the area at a later time and from patrons use of the external area to the rear.

Resolved that having taken into account all of the above representations the variation application be refused.

65. **REVIEW OF PREMISES LICENCE - REDS, 62 EBRINGTON STREET, PLYMOUTH**

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) considered all written representations;
- (iii) heard from the applicant's representative that –
 - the application for review related to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance;
 - the premises were located on a busy road with mixed commercial and residential use and was in a designated conservation area;
 - the most prominent acoustic feature of the night time environment was from live music on Friday, Saturday and Monday evenings;
 - the premise was old and was not designed to contain the volume of noise created by live music, entertainment, karaoke and recorded music;
 - a particular aggravating feature was caused by penetrative bass and vibration creating structure born noise transmission;
 - noise breakout into the street was affecting residents and continuing to disturb the nature and character of the area;
 - during routine 'out of hours' noise monitoring officers had witnessed several breaches of licence conditions and noise amounting to a nuisance and complaints had been received regarding unlicensed activity taking place;
 - support had been provided to the premises however attempts to resolve the complaint through discussion with the management had little success;
 - officers had been subjected to threatening and intimidating behaviour on two separate occasions from patrons of the premise who were uncontrolled by responsible persons at the premises indicating a significant fault in management controls;
 - the department had been made aware of alleged intimidation and victimisation directed against one complainant;
 - a total of five complaints had been received raising concerns over the growing noise disturbance in the vicinity emanating from these premises;

- having worked with two Designated Persons Supervisors (DPS) since June 2009 had concluded that live music entertainment was not suited to the premises and the business had failed to act in a responsible and approachable manner and as a result Reds had consistently failed to promote the licensing objectives to prevent public nuisance and to prevent crime and disorder.
- (iv) heard from a representative of Devon & Cornwall Police that –
- on 13 August 2009 it was reported by a member of the public that he had been threatened by a male from Reds Bar as he walked into the courtyard of his property. The DPS was standing outside the premise watching and took no action to prevent this incident;
 - on 15 August 2009 the reporting person was intimidated again by the same person. He stated that he had observed drinks being sold until 2am and patrons were shouting and fighting outside the premises;
 - on 15 August 2009 employees of Plymouth City Council were intimidated by customers of the premise and had felt threatened while the management and DPS had taken no action to assist;
 - on 17 August 2009 the complainant reported damage to his vehicle;
 - from police records seven complaints of anti social/rowdy/nuisance behaviour had been received since 17 August 2009.
- (v) heard from interested parties that –
- there was a high level of music generated from Reds Bar on Friday, Saturday and Monday evenings;
 - residents in the flats that found the noise level intolerable and residents were unable to read, watch television or sleep;
 - on 7 December 2009 a local landlord visited the premises regarding the noise and disorder problem and asked to speak with the manager. It was impossible to speak inside the venue and they had to speak in the street. The manager refused to lower the volume on the grounds that he would lose clients and money. He did agree to stop the band music at 11pm, however a loud 'thump thump' continued until 12.30am;
 - tenants, of the landlord, had given notice to vacate their flats due to the noise disturbance at night;
 - late night trespassers used the Ebrington Street alleyway as a public convenience and for needle disposal and trespassers entered the landlords garden causing distress to his residents;
 - there had been threats of violence, anti-social behaviour and criminal damage to property;
 - there had been regular abuses of the conditions on the licence.
- (vi) heard from the premises licence holders legal representative and his witness that –
- he did not seek to defend the suffering of the residents and he would try to

address all the issues raised;

- the premises were not currently trading and the freehold of the premises was to be sold;
- it was proposed that live music be removed as a licensable activity and a number of conditions be added to the premises licence to resolve residents concerns regarding loud music and anti social behaviour.

Members believed the current DPS had failed to demonstrate the management skills necessary to operate a licenced premise and were concerned over his long period of absences.

Members were satisfied that the removal of a number of licensable activities and addition of further conditions would resolve residents concerns.

Having taken into account all the relevant representations made, the members have resolved to:

(1) exclude the following licensable activities –

- performance of live music (indoors);
- entertainment of a similar description to that falling within e, f or g (indoors);
- provision of facilities for making music (indoors).

(2) modify the conditions of the licence by removing the following conditions –

- Annex 2 conditions imposed by the Environmental Health Representative (1 and 2);
- Annex 2 the Prevention of Public Nuisance (1) live music will be staged in the bar only.

(3) modify the conditions of the licence by adding the following conditions –

- all regulated musical entertainment must be controlled by a suitable noise limiting device, which will be set at an appropriate level in consultation with the Environmental Health Department;
- a senior member of staff or other authorised person shall monitor the noise levels from a designated monitoring location on the other side of the road to the premises (outside 57 Ebrington Street);
- noise emanating from the premises shall not be clearly audible one metre from the façade of the designated monitoring location;
- customers will not be permitted to smoke or drink outside the front of the premises.

(4) Remove the DPS.

66. **EXEMPT BUSINESS**

There were no items of exempt business.