

CITY OF PLYMOUTH

Subject: Stopford Arms, 172 Devonport Road, Plymouth.
Review of Premises Licence

Committee: Licensing Sub Committee (Miscellaneous)

Date: 23 August 2011

Cabinet Member: Councillor Michael Leaves

CMT Member: Director for Community Services

Author: Peter Clemens, Senior Licensing Officer

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Key Decision No

Ref: ERS/LIC/PREM

Part: I

Executive Summary:

An application has been received from Environmental Health under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of the Stopford Arms, 172 Devonport Road, Plymouth.

Corporate Plan 2011 - 2014:

This report links to the delivery of the City and Council priorities. In particular:

- I. Delivering Growth
-

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 | SD/5.8.11/12520 | Head of HR | | Head of AM | | Head of IT | | Head of Strat Proc | |
| Originating CMF Member | | | | | | | | | | | |

1.0 BACKGROUND

1.1 On the 6 July 2011 the licensing department received an application from Environmental Health under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of the Stopford Arms situated at 172 Devonport Road, Plymouth.

1.2 Review application.

Environmental Health have applied for the review of the premises licence for the purpose of promoting the licensing objectives in relation to the prevention of public nuisance. A Copy of this application has been served by Environmental Health on each of the responsible authorities and the holder of the premises licence.

Environmental Health have received complaints of excessive noise coming from the premises. Officers from the Public Protection Service have visited the vicinity of the premises and in their opinion excessive noise has emanated from the premises in breach of their licence conditions. Therefore it is their professional opinion the premises are breaching the licensing objective for the prevention of public nuisance.

In accordance with review proceedings at 2.43pm on Wednesday 6 July 2011 a licensing officer from Plymouth City Council attended the premises and spoke to Mr Hamblin the manager and requested the site notice be displayed at the premises.

At 8.26am the next day a similar notice was displayed on the public notice board at the Civic Centre, Armada Way, Plymouth.

1.3 Licensable Activities.

These premises have the following licensable activities and timings.

| | |
|---|--------------------|
| (B) Exhibition of films (Indoors) | |
| Monday to Sunday | 9.00am to 11.00pm |
| Non Standard Timings New Years Eve 12.30am | |
| (C) Indoor sporting event | |
| Monday to Thursday | 9.00am to 12.30am |
| Friday and Saturday | 9.00am to 1.00am |
| Sunday | 9.00am to 12.30am |
| Non Standard Timings When hours are extended on Bank Holidays and New Year's Eve these hours are also extended to the end of trading hours | |
| (E) Performance of live music (Indoors) | |
| Monday to Sunday | 11.00am to 11.00pm |
| Non Standard Timings New Years Eve 12.30am | |

| | |
|---|--------------------|
| <u>(F) Playing of recorded music (Indoors)</u> | |
| Monday to Sunday | 9.00am to 11.00pm |
| Non Standard Timings New Year's Eve to 12.30am | |
| <u>(H) Entertainment of a similar description to the falling within (E) or (F) (Indoors)</u> | |
| Monday to Sunday | 9.00am to 11.00pm |
| Non Standard Timings New Year's Eve to 12.30am | |
| <u>(I) Provision of facilities for making music (Indoors)</u> | |
| Monday to Sunday | 9.00am to 11.00pm |
| Non Standard Timings New Year's Eve to 12.30am | |
| <u>(L) Late night refreshment (Indoors)</u> | |
| Monday to Wednesday | 11.00pm to 12.30am |
| Thursday to Saturday | 11.00pm to 1.00am |
| Sunday | 11.00pm to 12.30am |
| Non Standard Timings 11.00pm on New Year's Eve until 1.00am following New Year's Day 11.00pm to 1.00am on Sunday and Monday of bank holidays Christmas Eve and Boxing Day | |
| <u>(M) Sale by retail of alcohol for consumption ON and OFF the premises</u> | |
| Monday to Wednesday | 9.00am to Midnight |
| Thursday to Saturday | 9.00am to 12.30am |
| Sunday | 9.00am to Midnight |
| Non Standard Timings 9.00am on New Year's Eve until 12.30am following New Year's Day 9.00am until 12.30am on Sundays and Mondays of bank holidays, Christmas Eve and Boxing Day. All activity will cease in all garden areas at 11.00pm every day. | |
| <u>The opening hours of the premises</u> | |
| Monday to Wednesday | 9.00am to 12.30am |
| Thursday to Saturday | 9.00am to 1.00am |
| Sunday | 9.00am to 12.30am |
| Non Standard Timings 9.00am on New Year's Eve until 1.00am following New Year's Day 9.00am until 1.00am on Sundays and Mondays of bank holidays, Christmas Eve and Boxing Day. All activity will cease in all garden areas at 11.00pm every day. | |

1.4 Conditions currently attached to the premises licence (Appendix 1)

2.0 RESPONSIBLE AUTHORITIES

- 2.1 *Devon and Cornwall Police* – no representations.
- 2.2 *Devon & Somerset Fire & Rescue Service* – no representations.
- 2.3 *Trading Standards* – no representations
- 2.4 *Planning Officer* - no representations.
- 2.5 *Child Protection* – no representations
- 2.6 *Health & Safety Executive* – no representations.

3.0 INTERESTED PARTIES

2- letters of representation have been received from residents living in the vicinity of the premises (Appendix 2 and 3).

4.0 CONSIDERATIONS

- 4.1 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 necessary 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.
- 4.2 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 4.2 (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.

ANNEX I - MANDATORY CONDITIONS

1. The first condition is that no supply of alcohol may be made under the 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. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

3.(1) The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

(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 (other than any promotion or discount available to an individual in respect of alcohol for

consumption at a table meal, as defined in section 159 of the Act);

(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;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a

sporting event, where that provision is dependent on-

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) 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.

4. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

6.(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) 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 a holographic mark.

7. The responsible person shall 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; and
- (b) customers are made aware of the availability of these measures.

Exhibition of films

(1) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

(2) Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

(3) Where-

- (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,
- admission of children must be restricted in accordance with any recommendation made by that licensing authority.

(4) In this section-

"children" means persons aged under 18; and
"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

A Conditions imposed by the Environmental Health Representative

The Prevention of Public Nuisance

1. Live music, Karaoke, DJ and other similar entertainment using amplified voice will cease at; 23.00hrs Monday to Sunday, after which time ancillary recorded music only will be played until closing
2. The door leading to the beer garden directly from the bar area will not be used during live music, karaoke, DJ and other similar entertainment using amplification. Patrons will use the alternative door through the corridor (except in an emergency)
3. Doors and windows will be kept shut during entertainment
4. Staff will check prior to entertainment, and periodically during the entertainment, that all windows and doors are shut
5. A senior member of staff (manager) will assess the impact of any noisy activities on neighbouring residential premises at the start of the activity/entertainment and periodically throughout the activity/entertainment
6. Management will control the sound levels of the music/entertainment
7. Between 23.00hrs and midnight
To prevent entertainment being intrusive, noise emanating from the premises will not be clearly distinguishable above other noise one metre from the façade of the nearest residential property
8. Between midnight and Closing Time
Noise emanating from the premises will not be distinguishable above background levels one metre from the façade of the nearest residential property.
9. Provision of mechanical ventilation and extraction equipment will not allow noise breakout from then premises or cause a nuisance by its operation

Public Safety

1. During live music, karaoke, DJ and other similar entertainment using amplification, when windows and doors will be kept closed to prevent noise outbreak, the air quality will be regularly monitored. Where problems are noted, entertainment will be paused, and remedial action will be taken to ventilate the area.

B Steps taken to promote the four licensing objectives

1. Staff will be trained on the requirements of the Licensing Act 2003 when they are recruited and given training in “drugs awareness” as part of their induction.
2. The Designated Premises Supervisor will be a member of a local Pubwatch scheme so long as it exists.
3. Live music will be staged in the bar only
4. All windows will be kept closed after 23.00

5. A notice will be placed prominently at the exits asking customers to leave quietly.
6. Photographic proof of age will be required to be shown by anyone seeking to purchase alcohol that appears to be under 18 years of age.

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

1. All live music or similar entertainment using amplified voice will cease at 23.00hrs every day other than New Years Eve when it will cease at 00.30hrs New Years Day
2. All activity will cease in all garden areas at 23.00hrs every day

, Stopford Place
Stoke
Plymouth
PL1

Head Of Environmental Services
Dept. of Community Services
Plymouth City Council
PL1 2AA

13th July 2011

Dear Sir/Madam

Re: Licence review of Admiral Stopford Arms, 172 Devonport Road, PL1 5RE

We consider the Admiral Stopford Arms to be an unacceptable public nuisance to the local community. Since the terms of the licence for the pub were changed in August 2005 to allow live and recorded music, together with longer drinking hours, the character of the pub has become unsuitable for a quiet residential area.

The Stopford has been badly managed by a succession of short-term landlords who have regularly disregarded their licence conditions. This has meant we have had to put up with loud music coming from the pub late at night, which we can hear in our living room and bedroom, causing upset and sleepless nights. The licence conditions state that all music should stop by 11pm and that doors and windows should be closed but this just does not happen. We have a diary of evidence dating back over six years. The police have been involved with the pub in particular with the previous tenant who over the winter months appeared to be serving alcohol way beyond permitted licensing hours, playing music at all hours - we were woken by music at 5am, 1am, even 7am. On another occasion our son suffered a sleepless night midweek on the eve of an A level retake. That tenant left under something of a cloud.

The problems began soon after the new licence was granted back in 2005 with regular loud music causing a lot of disruption and sleepless nights. That tenant left suddenly. He also left behind an unsightly partly open extension to the pub which we believe was built without planning permission and which was completely inappropriate for the Stoke conservation area. This smoking area also contributes to noise problems in the summer months.

The current manager had recently been playing loud music again - though not to the same degree and frequency as over the winter months. The Environmental health noise team have been called on several occasions and we understand the police have been involved in a recent disturbance at the pub.

Stopford Place is a quality, family based residential area and this pub is impacting on the feel of the neighbourhood. The problem is a recurring one. The pub does not appear to be financially viable probably because successive publicans - in contrast to another pub on the street the Lounge - have misunderstood the local market. A music based, session drinking pub is never going to be viable here. That means publicans come and go as inevitably they lose money - to be honest we almost feel sorry for some of them. They either do not understand or ignore the terms of their licence, despite frequent visits from the authorities and we locals suffer the



consequences in terms of noise and disruption. We have had enough. We feel the best outcome of this review would be for the pub should have its licence revoked or at the very least the music licence removed.

Yours faithfully

N.B. Photocopy of diary to be sent shortly



Stopford Place
Stoke
Plymouth
PL1

Licensing Department
Civic Centre
Plymouth
PL1 2AA
25.7.11

Ref: The Stopford Arms

Dear Mr Clemens,

I'm writing with reference to the Stopford Arms Public House, and the on going issue with noise nuisance.

I live near to the above mentioned establishment, and I would like to express my concern over the level of noise being produced on a regular basis. It is unacceptable. My sleep is regularly disturbed, I can't have my windows open due to the noise, although it is still audible through closed windows.

I can often hear the noise from the juke box, live bands and karaoke.

In addition, the level of noise that is produced by the patrons in and around the establishment is extremely excessive at times, especially late evening.

To conclude, I feel that it is unacceptable to have an establishment producing excessive amounts of noise pollution, in a quiet , residential and conservation area of Plymouth.

Yours sincerely