

PLYMOUTH CITY COUNCIL

Subject: Divas, 38 – 40 Union Street, Plymouth
Review of Premises Licence

Committee: Licensing Sub Committee (Miscellaneous)

Date: 5 and 6 January 2012

Cabinet Member: Councillor Michael Leaves

CMT Member: Director of Place

Author: Peter Clemens

Contact: Tel: 01752 305465
e-mail: licensing@plymouth.gov.uk

Ref: ERS/LIC/PREM

Key Decision: None

Part: I

Executive Summary:

An application has been received from Devon and Cornwall Police under Section 53A of the Licensing Act 2003 for the review of the premises licence in respect of Divas, 38 – 40 Union Street, 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: e.g. Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:

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 & 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:

| | | | | | | | | | | | |
|------------------------|--|-----|-----------------------|----|--|--------------|--|----|--|---------------|--|
| Fin | | Leg | 19.12.11/ 13567/sd | HR | | Corp Prop | | IT | | Strat Proc | |
| Originating SMT Member | | | | | | | | | | | |

1.0 INTRODUCTION

1.1 On the 12 December 2011 the licensing department received an application from Devon and Cornwall Police under Section 53A of the Licensing Act 2003 for a summary licence review in respect of Divas situated at 38 – 40 Union Street, Plymouth.

1.2 Review application.

Assistant Chief Constable Paul Netherton submitted a certificate together with an application for the review of the premises licence to the licensing authority signed by him on 12 December 2011 stating that the premises (Divas) were associated with both serious crime and serious disorder.

Upon receipt of the application the Licensing Authority had to give consideration as to whether it was necessary for any interim steps to be taken pending the outcome of the review hearing. This decision had to be made within 48 hours and could only be made by members of the Licensing Committee.

The interim steps that the licensing authority was able to consider were:

- Modification of the conditions of the premises licence.
- The exclusion of the sale of alcohol by retail from the scope of the licence.
- Removal of the designated premises supervisor from the licence and
- Suspension of the licence.

In accordance with review proceedings at 11.27am on Tuesday 13 December 2011 a licensing officer from Plymouth City Council attended the premises and attached a site notice to lamp post (number 14) directly outside the premises.

At 11.39am the same day a similar notice was displayed on the public notice board at the Civic Centre, Armada Way, Plymouth.

The licensing Sub Committee met on 14 December 2011 to consider whether it was necessary to impose interim steps pending the review of the licence. The police and premises licence holder were present at the meeting along with their legal representatives.

Taking into account all the information available to the committee at that time, the committee decided that it was necessary to take the following interim steps:

- Suspension of the licence.

Having considered interim steps the Licensing Authority must now review the licence and reach a decision within 28 days of receipt of the application.

2.0 LICENSABLE ACTIVITIES

These premises have the following licensable activities and timings.

| | |
|--|-------------|
| <u>(F) Playing of recorded music (Indoors)</u> Monday to Saturday | 4pm to 4am |
| <u>(G) Performance of dance (Indoors)</u> Monday to Saturday | 4pm to 4am |
| <u>(H) Entertainment of a similar description to that falling within (F) or (G) (Indoors)</u> Monday to Saturday | 4pm to 4am |
| <u>(J) Provision of facilities for dancing (Indoors)</u> Monday to Saturday | 4pm to 4am |
| <u>(K) Provision of facilities for entertainment of a similar description to that falling within (J) (Indoors)</u> Monday to Saturday | 4pm to 4am |
| <u>(L) Late night refreshment (Indoors)</u> Monday to Saturday | 11pm to 4am |
| <u>(M) Sale by retail of alcohol for consumption ON and OFF the premises</u> Monday to Saturday | 10am to 4am |
| Opening hours of the premises Monday to Saturday | 10am to 4am |

2.1 Conditions attached to the licence (Appendix I)

3.0 RESPONSIBLE AUTHORITIES

3.1 *Environmental Health* – no representations

3.2 *Devon & Somerset Fire & Rescue Service* – no representations.

3.3 *Trading Standards* – no representations

3.4 *Planning Officer* - no representations.

3.5 *Child Protection* – no representations

3.6 *Health & Safety Executive* – no representations.

4.0 INTERESTED PARTIES

No representations.

5.0 CONSIDERATIONS

5.1 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.

5.2 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 5.2 (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.

The committee must secure that, from the coming into effect of the decision made on the determination of the review the interim steps having effect pending that determination cease to have effect (except if they become steps to be taken under 5.2 above).

6.0 RIGHT OF APPEAL

6.1 An appeal may be made to the Magistrates Court within 21 days of the licence holder being notified of the licensing authority's decision. An appeal may be made by the premises licence holder, the chief officer of police and / or any other person who made relevant representations.

6.2 The decision of the licensing authority following the hearing will not have effect until the end of the period allowed for appeal or until the appeal is disposed of. Any interim steps taken will remain in force through this period.

R. Carton
Manager of Public Protection Service

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.

The Following Mandatory Conditions came into force on the 6th April 2010

1.(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.

2. 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).

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

The Following Mandatory Conditions shall come into force on the 01st October 2010

4.(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.

5. 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.

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

Steps that have been taken to promote the Four Licensing Objectives

- a) Total Sound containment after 2am until 4am
- b) Suitable signage to be positioned at exits to request the co-operation of patrons, in particular to make as little noise as possible when leaving the premises

Conditions that have been agreed with The Police Licensing Department

a) General

- Approved adult entertainment on these premises shall consist of striptease, pole dancing and lap dancing.
- The proprietor/director of the company is to ensure that, prior to engagement, all performers for approved adult entertainment shall provide documents of proof that they are over 18 years of age. Copies of such documents shall be retained on the performer file held at the premises and be available for inspection by police personnel or duly authorised officer of the licensing authority on request.

- A register of performers will be maintained on the premises, which will identify the responsible manager and the performers along with their days and hours of duty.
- No performer shall accept or give telephone numbers from/to customers or exchange personal details with customers.
- No performer shall be allowed to work if, in the judgement of the management, they appear to be intoxicated or under the influence of illegal substances.
- Performers shall be provided with changing room/s within the premises, which shall be located so as to be separate and apart from the public facilities.
- No person other than performers and authorised staff shall be permitted in the changing room/s.
- The premises 'house rules' shall be available to police personnel or duly authorised officer of the licensing authority on request and displayed on entry to the premises for customers.

b) The prevention of crime and disorder

- Whenever the Designated Premises Supervisor is not at the premises another responsible person will be nominated by the Designated Premises Supervisor as being the person to manage the premises.
- There shall be no admittance to the premises of any person under the age of 18 years.
- Approved adult entertainment shall only be performed by the performers/entertainers and the audience shall not be permitted to participate.
- No persons other than the performers engaged in the approved adult entertainment shall be in the licensed/designated area in a state of undress.
- There shall be no form of physical contact between customers and the performers during approved adult entertainment other than the transfer of money or tokens at the beginning or conclusion of the performance.
- Customers shall remain seated whilst receiving/watching in private a performance of approved adult entertainment.
- Performers will stop immediately and move away from any customer who is offensive or attempts to touch them, and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management.

- The premises shall be equipped with Closed Circuit Television (CCTV) installed so as to cover all areas where approved adult entertainment will take place. Recordings shall be made available only to police personnel or duly authorised officer of the Licensing authority on request.
- Enclosed booths where approved adult entertainment is to take place shall have CCTV coverage and a panic button installed.
- Open booths where approved entertainment is to take place shall have a door supervisor patrolling at all times they are in use.
- Other than recordings made in accordance with the above condition, no other photographic, filming, recording or electronic transmission of performances shall take place without the prior, express consent of the Licensing Authority.
- CCTV shall also be installed in all areas including the entrance/exit door and the routes taken to gain entry/exit.
- CCTV cameras shall be kept clean and maintained at all times.
- CCTV images shall be retained for a minimum of 14 days.
- The CCTV system shall have the capability of downloading the images to a recognised format.
- A register shall be kept detailing all requests by Police for CCTV images. This shall include time and date of request, time, date and location of incident, time and date of hand on to Police.
- During trading hours, members of staff shall be present who are trained to view and download images from CCTV at request of Police.
- The Police Licensing Department shall be informed if the CCTV system is not working.
- A daily incident logbook detailing all incidents of note at the premises or in the immediate vicinity e.g. slips, accidents, entry refusals and incidents of disorder etc. The log should detail the date, time, type of incident, brief circumstances, action taken and person dealing. The logbook shall be made available for up to six months to the police or any other responsible authority for inspection, if required.
- Any Ejection of persons from the premises shall only be made from entrance/exits covered by CCTV.
- All relevant incidents will be reported to the police at the earliest opportunity.

- A separate register shall be maintained recording the details of door supervisors working. It should include Date, name, SIA registration number, expire date of licence, the time duty commenced and time duty ceased.
- At least 2 door supervisors shall be on duty at all times the premises are open for trading.
- Whilst approved adult entertainment is taking place at least 1 door supervisor shall be employed in that part of the building where the performance is occurring.
- Police Officers will be afforded all possible assistance in the course of their investigations that relate directly to the premise.
- All material evidence resulting from a criminal incident will be preserved for Police forensic examination.
- No irresponsible retail of alcohol will take place.
- No all inclusive drink promotions will be offered.
- No open bottles or other vessels will be taken from the premises.
- All staff and managers will be made aware of the conditions attached to the licence.

c) Protection of Children from Harm

- Any person who looks or appears to be under the age of 21 shall be asked to provide identification that they are over the age of 18. The following are the only forms of identification acceptable:
 - [UK photo driving licence]
 - [Passport]
 - [Service personnel id]
- Notices obtained from Police publicising the Challenge 21 initiative shall be clearly displayed at the entrance to the premises and behind the bar area at all times.
- Regular and documented training of staff in relation to the prevention of under age sales.