

Licensing Sub Committee

Tuesday 28 February 2012

PRESENT:

Councillor Browne, in the Chair.
Councillor Lock, Vice Chair.
Councillor Rennie and John Smith (fourth member).

Apologies for absence: Councillor Reynolds (Councillor Lock substituted for Councillor Reynolds)

Also in attendance: Pete Clemens – Senior Licensing Officer, Bev Gregory, Licensing Officer, Andy Netherton, Manager Safety, Health and Licensing, Sharon Day – Lawyer, Ann Gillbanks, Senior Lawyer and Ross Johnston – Democratic Support Officer.

The meeting started at 10.00 am and finished at 1.30 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.

76. APPOINTMENT OF CHAIR AND VICE-CHAIR

Agreed that Councillor Browne is appointed as Chair and Councillor Lock appointed as Vice Chair for this meeting.

77. DECLARATIONS OF INTEREST

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

78. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

79. REVIEW OF PREMISES LICENCE - THE FALCON HOTEL, 22 MELVILLE ROAD, FORD, PLYMOUTH

The committee having –

- (a) considered the report from the Director for Place;
- (b) heard from a representative of Environmental Health that –
 - (i) over the last few years complaints had been received from local residents relating to excessive noise from the premises which was surrounded by residential properties;

- (ii) the main complaints were from residents in Kent Road, but complaints from residents in Melville Road and Nepean Street had also been received;
- (iii) the complaints related to noise levels created inside the public house from live, recorded and karaoke music;
- (iv) management had made no attempts to reduce the noise levels and the windows and doors were left open during entertainment despite the conditions attached to their premises licence and despite advice and warnings being given by Environmental Health;
- (v) regulated entertainment had also taken place past their licensed hours and numerous breaches of licence conditions had been witnessed;
- (vi) the designated premises supervisor (DPS) had accepted a caution for unlicensed activities carried out on the 24 September 2011, 11 November 2011 and 19 November 2011;
- (vii) evidence of the noise complaints received was submitted in section 9 statement format from various environmental health officers who had visited the premises. This evidence was accepted by the premises licence holder (PLH) and also by the committee as showing that there had been a breach of the prevention of public nuisance licensing objective;
- (viii) additionally copies of anonymous noise diaries were submitted to the committee and these taken with the statements of the officers were accepted by the committee as showing breach of the prevention of public nuisance licensing objective;
- (ix) reference was made to the cleanliness of the premises whilst the previous DPS was resident;
 - this had not been taken into account by committee as the DPS had vacated the premises;
- (x) committee were made aware of the fact that letters had been written to the PLH and the DPS on various occasions outlining the problems that existed but that the PLH had not taken any action to address the issues with the management of the premises until the review proceedings were issued;
- (xi) the PLH had issued the DPS with notice to quit the premises by the 21 February 2012;
- (xii) the premises structure was not considered to be adequate to control noise levels. The building had single glazed windows and

doors and some windows did not shut properly. The PLH indicated that they would be willing to install a noise limiter but would not want to replace the windows or carryout substantial works. Environmental Health were concerned that due to the structure of the building the noise limiter would have to be set at such a level that it would be unrealistic for the PLH to operate with it at such a level but that would only be able to be ascertained once a limiter was installed. It was suggested that no regulated live or karaoke entertainment be permitted at the premises until Environmental Health were satisfied that a suitable noise limiter was installed and levels set by agreement;

(xiii) the problems with the premises were caused from Karaoke, live music and use of the Juke box when the music licence ceases. Environmental Health were of the opinion that the noise issues could be resolved if a suitable DPS was appointed who adhered to licensing conditions and a noise limiter was installed to control the noise levels. They considered that structural improvements, based on recommendations by a noise survey, may be required if noise limits were deemed unrealistic for the PLH. They suggested amended conditions be attached to the licence to address the problems and allow any future DPS to manage the noise levels effectively and these had been agreed with the PLH;

(c) heard from the premises licence holder –

- (i) that notice to quit had been served on the DPS on the 24 January 2012 and the she had vacated the premises on the 21 February 2012;
- (ii) whilst GRS were the premises licence holder they could not incur expenditure without permission from Price Waterhouse Coopers who were the administrators;
- (iii) the PLH was willing to hold quarterly meetings with local residents to ensure that they had a mechanism for airing any concerns and they were happy for a condition to be attached to the licence to deal with this;
- (iv) the PLH was also willing to accept a condition that if a pub watch scheme was available in the area they would join it;
- (v) they accepted the conditions put forward by Environmental Health at the hearing;
- (vi) they explained that they were unaware of many of the problems that existed with regard to anti social behaviour until they were served with the review papers. They had not received the first letter from Environmental Health but on receipt of the second one they had started to address the problems of noise with the DPS;

- (d) heard from interested parties present and considered written representations under the prevention of public nuisance licensing objective that –
- (i) resident's sleep was being disturbed by the karaoke nights at the premises. Noise from this activity had been audible in resident's bedrooms at 12.45am which was past the hours within which the premises could operate. Noise was so loud that songs, lyrics and announcements from the PA system could be heard. During the summer some residents were unable to have their windows open as the noise levels drowned out their TV/Radio;
 - (ii) one resident wrote in their representation that there had been ongoing problems with the premises for 20 years and that they had concerns about the DPS's ability to run the premises within the terms of the licence;
 - (iii) doors and windows of the pub had been left open. The local ward councillor advised committee that she had witnessed noise from the pub and had been subjected to anti social behaviour. She further stated that there had been a problem with the use of the door on Kent Road but that the DPS had stopped that and that she had also moved music to the back of the pub. Also, in her opinion the windows of the premises were not suitable for music to be played and would benefit from double glazing;
 - the committee considered that this was relevant and were satisfied that this showed a breach of the public nuisance licensing objective. Committee were of the opinion that these problems were mainly due to bad management by the DPS but the conditions agreed with environmental health and the voluntary conditions offered by the PLH would prevent any future problems;
 - (iv) residents complained of anti social behaviour such as users of the premises urinating up against resident's front walls (the committee heard from the ward Councillor that she had witnessed this on one occasion) and also alleged that there was drug dealing taking place;
 - the committee considered that the allegation of drug dealing was not relevant as there was no evidence to support this. However the other issues of anti social behaviour were relevant but that again these were due to the bad management of the premises by the DPS and that as she had now left no further action was necessary;
 - (v) noise from customers congregating was a problem with some being verbally abusive to passers by. There is no suitable area for smokers and this had caused additional noise;

- this was considered to be relevant however the committee considered that these problems were down to bad management by the DPS and that now that she had left no further action was necessary;
- (vi) a petition was received signed by 15 people which outlined (in addition to the noise problems referred to above) problems with getting their cars parked, dogs barking day and night, smelly chimney, rubbish and broken glass left in the gutter and damage to their cars. This was treated as one representation;
- this was noted but was not considered to be relevant to the licensing objectives and could not be linked to these premises.

Having taken into account all the relevant representations made, the members agreed to amend the current licence by the addition of the conditions agreed with Environmental Health and also to the two voluntary conditions offered by the PLH all of which are detailed below:

- (I) conditions agreed with Environmental Health:
- (i) no percussion instruments will be permitted as part of any entertainment set;
 - (ii) no regulated entertainment will take place until a noise limiting device (the specification and design to be agreed with Environmental Health Service) is fitted so that all regulated, live, Karaoke and recorded music is channelled through the device(s). The maximum noise levels will be set by agreement with the Environmental Health Service and will be reviewed from time to time as appropriate;
 - (iii) the Licence holder will ensure that the noise limiting device is sealed after commissioning, so that sound operators cannot override the system during the performance of live and recorded music;
 - (iv) all regulated entertainment will go through the noise limiter;
 - (v) the Juke Box must also be restricted and sealed after being set by agreement with the Environmental Health Service to ensure the level is restricted to background/incidental music after 11pm;
 - (vi) the Licence Holder or nominated person will be available at all times during regulated entertainment and who is responsible for cooperating and liaising with police and other responsible authorities;
 - (vii) a telephone number will be made available and displayed in prominent locations on the premises for local residents to contact in the case of noise-nuisance or anti-social behaviour by persons

associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Records will be made available for inspection either by authorised officers or Police throughout the trading hours of the premises;

- (2) conditions volunteered by the PLH:
- (i) that the PLH will ensure that the DPS joins any pub watch scheme that is operational in the area;
 - (ii) the PLH will organise quarterly meetings with local residents to address any concerns and issues that may be relevant to premises.

80. **RENEWAL OF A SEX ESTABLISHMENT LICENCE (SEX SHOP) - SLINKIES, 16 MANOR STREET, PLYMOUTH**

The committee having –

- (a) considered the report from the Director for Place;
- (b) heard from the applicant;
- (c) heard representations/read written representations from Strategic Housing Neighbourhood Manager and local ward Councillor as detailed below;
- (d) considered representations under the licensing objectives (as set out in the Council's policy on Sex Establishment Licensing) as follows:

(1) Prevention of crime and disorder

- (i) it was believed that locating a sex establishment within one of the most densely populated and deprived communities which was also a conservation area and a gateway to the city did not protect the nature, amenity and character of the Stonehouse neighbourhood. It was believed that as a result of its presence there was an increased risk of crime and disorder;
 - this was not considered applicable as no representations were presented to the committee;

(2) Protection of safety, health and public decency

- (i) it was believed that locating a sex establishment within one of the most densely populated and deprived communities which was also a conservation area and a gateway to the city did not protect the nature, amenity and character of the Stonehouse neighbourhood. It was believed that as a result of its presence there was a substantial

risk of offending public decency; and that the wellbeing of children would be adversely impacted;

- members accepted this representation but considered that the solution offered by the applicant of change to signage would address these concerns and members would impose a condition to confirm this;

(3) Prevention of Nuisance

- (i) no representations heard;

(4) Protection of Children from Harm

- (i) the establishment was based not 50m away from a Children's centre providing childcare and support services for children aged 0-5yrs and their families, many of whom were considered vulnerable. It was also 50m away from 2 play parks, and 25m away from family social housing accommodation in Valletort House.

- members accepted this statement but no evidence was presented to support this concern;

(5) Protecting the nature, amenity and character of a neighbourhood

- (i) local residents groups such as Adelaide Community Project and Stonehouse Action had long been campaigning to compel Plymouth City Council to take every possible action to narrow the gap in the quality of life, that exists for residents in the Stonehouse neighbourhood and especially the Union Street vicinity as a result of the range of social pressures, including those caused by the Evening and Night Time Economy and Sex Establishment Trade. By not subjecting existing Sex Establishment businesses to the full consideration against the licensing criteria, it was viewed to be a missed opportunity to make a significant step to narrowing this gap for local residents. It also appeared to reflect the disregard of the significant housing stock located on or just off Union Street – residents have expressed anxiety that Union Street was accepted by Plymouth City Council as an area for lower end Evening and Night Time Economy provision, including Sex establishments without consideration to the impact on a sizeable residential community;

- the licensing committee had fully considered the application in light of all the licensing issues in the council's policy;

(6) Quantity Limit Statement

- (i) considered the Council's Policy and Quantity Limit Statement which stated that it was appropriate to have one sex shop in the Union

Street location;

- Members had heard no evidence to cause them to depart from the council's policy in this regard;

(7) Other considerations

- (i) no representations heard.

Agreed that having taken into account all of the above representations the application is granted subject to a special condition being placed on the licence as follows:

- (1) the signage at the premises should only display the business name and no reference to licensed adult shop or other description of products sold are to be included in the signage.
- (2) all other standard conditions to be applicable to the licence.

81. **EXEMPT BUSINESS**

There were no items of exempt business.

82. **REVIEW OF PREMISES LICENCE - THE FALCON HOTEL, 22 MELVILLE ROAD, FORD PLYMOUTH**

Minute 79 refers.

83. **RENEWAL OF A SEX ESTABLISHMENT LICENCE (SEX SHOP) - SLINKIES, 16 MANOR STREET, PLYMOUTH**

Minute 80 refers.