

Licensing Sub Committee

Tuesday 16 October 2012

PRESENT:

Councillor Rennie, in the Chair.
Councillor John Smith (Fourth Member), Vice-Chair.
Councillor Mrs Dolan.

Apology for absence: Councillor Gordon.

Also in attendance: Debbie Bradbury (Lawyer), Pete Clemens (Licensing Officer), Katey Johns (Democratic Support Officer), Mr Ravi Sarvaiya (Applicant), Mr Campbell (Applicant's Lawyer), Councillor Nicky Williams and Mr Philip Miller (Objectors), Mr Aktas (Applicant), Mr McIndoe (Police) and Mr Rhodri Morgan (Environmental Health).

The meeting started at 10.05 am and finished at 12.50 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.

44. **APPOINTMENT OF CHAIR AND VICE-CHAIR**

Agreed that Councillor Rennie is appointed Chair and Councillor John Smith is appointed Vice-Chair for this meeting.

45. **DECLARATIONS OF INTEREST**

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

46. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

47. **BARGAIN BOOZE SELECT CONVENIENCE, 440 CROWNHILL ROAD, WEST PARK, PLYMOUTH - GRANT OF PREMISES LICENCE**

The Committee having –

- (i) considered the report from the Director for Place;
- (ii) heard that Devon & Cornwall Police had agreed conditions with the applicant;
- (iii) heard representations from interested parties and considered written representations;

(iv) heard from the applicant's legal representative that:

- There had been no representations from any responsible authority;
- The representations received relate in the main to problems perceived to be occurring in the vicinity which cannot be linked to the applicant;
- Criticisms are directed at existing premises however none of these premises have been subject to review or variation in order to deal with any issues;
- The representations do not consider how the proposed conditions can alleviate any concerns;
- The area is not subject to the cumulative impact policy of the Council;
- Some of the representations appear to have been encouraged by owners of existing premises who may not wish to face competition;
- Despite the name of the premise it is not only an outlet to serve alcohol it is a convenience store which sells alcohol and the overall shelf space reflects that food, newspapers, snacks and general sundry items are the main focus of the goods on offer and a large plan was provided;
- All point of sale terminals have till prompts that keep a record of ID checks having taken place and Challenge 25 will be applied to all customers;
- The applicant is an experienced personal licence holder whose other 'Bargain Booze' outlet is an integral part of the Plympton community and he is committed to upholding the licensing objectives;
- There is an incentive scheme whereby a reward of up to £500 is provided to any member of the public who passes on information relating to alcohol being sought by adults on behalf of minors;
- Bargain Booze is a franchise type operation and this franchise could be lost by the applicant should he commit a criminal offence relating to the Licensing Act 2003;
- CCTV systems will be operational prior to the proposed store opening;
- There should be careful scrutiny of the motives of individuals raising concerns in relation to demand;
- The applicant does not believe that the licensing objectives would be undermined by the grant of this application, if subject to the conditions presently suggested and any other conditions the committee consider are appropriate and proportionate to the premise;

(v) considered representations under the licensing objectives as follows:

a) **Prevention of Crime and Disorder –**

Groups of young people congregate around the existing shops and it will encourage local youth gangs to frequent and loiter in this area; *This was considered to be relevant but cannot be associated with*

this premise.

There is already drinking on the playing fields and in the shopping area causing problems of noise and vandalism and makes elderly residents fearful; *This was considered to be relevant but cannot be associated with this premise.*

A local resident has been approached by youths to purchase alcohol for them and this will escalate; *This was considered to be relevant but cannot be associated with this premise. Members considered the incentive scheme provided by Bargain Booze.*

Last month the Chinese Takeaway had their windows smashed and last year West Park Wine's windows were smashed; *This was considered to be relevant but cannot be associated with this premise.*

There are many problems with anti-social behaviour and vandalism including drinking and riding unlicensed motor bikes; *This was considered to be relevant but cannot be associated with this premise and is an issue for the police.*

A bar in West Park has caused outbreaks of fights, loud noise and antisocial behaviour in a small area where crime is rife; *This was considered to be relevant but cannot be associated with this premise.*

Councillor Nicky Williams provided statistical evidence to the committee including that since the beginning of April 2011 up to the end of August 2012 there had been 858 incidents of anti-social behaviour in Honicknowle. She also provided an email from PCSO Martin Whitehouse that said often anti-social behaviour isn't reported to police and notes of the 'Have Your Say' neighbourhood meeting & Priorities and information regarding the number of child protection plans in the City. This was considered to be relevant however members felt that these were issues to be dealt with by councillors, police and other agencies.

b) Prevention of Public Nuisance –

There are concerns there will be an increase in litter and vomit; *This was considered to be relevant but cannot be associated with this premise.*

Bottles and cans have been found in a resident's gardens, the car park and playing fields; *This was considered to be relevant but cannot be associated with this premise.*

Other premises close at ten and there will be noise between 10pm and Midnight; *This was considered to be relevant and members have attached special condition 1.*

May intimidate vulnerable families wishing to use the centre; *This was considered to be relevant however members did not believe there was any evidence to substantiate this.*

c) Protection of Children from Harm –

Children may hear or witness shouting, swearing, drunken violence, smoking and excessive littering; *This was considered to be relevant but cannot be associated with this premise.*

It will entice more young people to drink and there is a high number of young people living in the neighbourhood; *This was considered to be relevant however members did not believe there was any evidence to substantiate this.*

It will attract the young and there is a risk of underage sales of alcohol and cigarettes; *This was considered to be relevant however members heard from the applicant that the challenge 25 policy will be applied to all customers.*

d) **Public Safety –**

Will attract more traffic and drivers already ignore the yellow lines, don't use the car park and park anywhere making it dangerous to cross the road; *This was not considered to be relevant.*

Too many youths are riding bicycles on the pavement and are being abusive to passers-by and customers; *This was not considered to be relevant.*

e) **Other representations –**

There is a café bar, wines and spirits shop and newsagent and is near Tescos and there are more than enough outlets in the area; *This was not considered to be relevant.*

Members agreed that having taken into account all of the above representations the application is granted as follows:

- (1) Subject to mandatory conditions contained in the Licensing Act 2003, conditions consistent with the applicants operating schedule, conditions agreed with Devon & Cornwall Police and the following special condition:

Special condition 1

- all alcohol sales will cease at 10 pm Monday - Sunday

48. **KENAN AKTAS BURGER VAN SITUATED IN THE CAR PARK, PLYMOUTH SOCIAL CLUB, 38/39 TAVISTOCK PLACE, PLYMOUTH**

The Committee having –

- (i) considered the report from the Director for Place;
- (ii) Heard representations from Environmental Health and Devon & Cornwall Police as detailed below under the relevant licensing objective;
- (iii) Heard from the applicant that:
 - CCTV cameras would be in all areas covering the car park and front

- of the road;
- He would collect rubbish and clean the areas as much as he could;
- There would be no under 18 year olds working in the trailer;
- He just wants to work and trade from the car park;

(iv) considered representations under the licensing objectives as follows:

a) **Prevention of Public Nuisance –**

Environmental Health say this premise is located within the cumulative impact policy area and there is the potential for the application to impact negatively on the cumulative impact already determined in the area. They say the applicant has failed to address within their operating schedule suitable controls to prevent any negative cumulative impact on the prevention of public nuisance licensing objective.

They say there is the potential for an increase in noise levels from patrons using the mobile food vehicle that may disturb local residents.

An increase in existing noise levels due to the operation of equipment associated with the mobile food vehicle, such as a generator affecting local residents.

An increase in levels of litter and spilled food waste from patrons in the vicinity.

An increase in levels of grease and by-products of cooking in the immediate vicinity.

They refer to a report produced in October 2010 titled 'Plymouth Customer Data Integration Project: Upload of Survey data-initial findings. The findings of this survey indicated that the residents were unhappy about anti-social behaviour in their neighbourhood and that the residents have been affected by the saturation of takeaways in the North Hill area.

The Environmental Health department has historically received a number of complaints regarding mobile food outlets in the area causing noise disturbance due to the operation of the equipment associated with the mobiles, such as the generator. They say there is a likelihood of odour nuisance from cooking smells affecting the residential properties in close proximity to the premise. They recommend that this application is refused.

b) **Prevention of Crime and Disorder –**

Devon & Cornwall Police identify that the premise is located in a cumulative impact area and said there was an increase in crime

levels within this cumulative impact area. Their evidence showed that the majority of crime in this area occurs between 10pm and 6am and cannot be attributed to individual premises. The peak time for all crime is between 3am and 4am particularly on Wednesday, Thursday, Friday and Saturdays.

They say if the licence is granted people who attend the van are likely to have been drinking, will consume their purchase in the vicinity of the premise in a public place and this is likely to impact on levels of violence and disorder reported.

A statement was provided by Mr Prout an Alcohol Licensing Officer which showed that from 1 January 2012 to October 2012 there had been a total of 217 violent crimes recorded of which 108 were violence with injury, 14 were of serious violence and 107 as other violence. 70% were street related and 30% were linked to premises. The times of the violence showed a steady rise after midnight until it peaked between 3am and 4am then started to reduce again.

c) **Protection of Children from Harm –**

There was no representation.

d) **Public Safety –**

There was no representation.

e) **Other representations –**

None

Members believed having heard from the Police and Environmental Health that this application was likely to add to the existing cumulative impact.

Members considered the applicant's operating schedule and representation made. However they did not consider the applicant had given sufficient answers to demonstrate there would be no negative cumulative impact on the prevention of crime and disorder or prevention of public nuisance licensing objectives.

Members agreed that having taken into account all of the above representations the application is refused.

49. **EXEMPT BUSINESS**

Whilst parts of the documentation presented to Committee were confidential, it was not necessary for the Committee to move to Part II during their discussions on this application.