

## PLYMOUTH CITY COUNCIL

**Subject:** Cuba, 1 Sherwell Arcade, Plymouth.  
Review of Premises Licence

**Committee:** Licensing Sub Committee

**Date:** 6 August 2013

**Cabinet Member:** Councillor Brian Vincent

**CMT Member:** Director of Place

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**Ref:** ERS/LIC/PREM

**Key Decision:** None

**Part:** I

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### **Purpose of the report:**

An application has been received from Devon and Cornwall Police under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of Cuba, 1 Sherwell Arcade, Plymouth.

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### **Corporate Plan 2012 – 2015:**

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

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### **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land:**

Not applicable

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### **Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

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.

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### **Equality and Diversity:**

Has an Equality Impact Assessment been undertaken? Yes/No

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### **Recommendations and Reasons for recommended action:**

That Members consider this report.

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**Alternative options considered and rejected:**

None

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**Published work / information:****Background papers:**

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	
Application										

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**Sign off:**

Fin		Leg	1806 3/ag/ 10.7. 13	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? Yes / No													

## 1.0 INTRODUCTION

1.1 On the 18 June 2013 the licensing department received an application from Devon and Cornwall Police under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of Cuba situated at 1, Sherwell Arcade, Plymouth.

## 1.2 Review application.

Devon and Cornwall Police have applied for the review of the premises licence for the purpose of promoting the licensing objectives in relation to the prevention of crime and disorder, public safety and the protection of children from harm. A Copy of this application has been served by Devon and Cornwall Police on each of the responsible authorities and the holder of the premises licence.

The police will allege that poor management of the premises has resulted in violent crimes and incidents tied and linked to the premises.

In accordance with review proceedings at 1.54pm on Wednesday 19 June 2013 a licensing officer from Plymouth City Council attended the premises and spoke to Mr Peter Chevin and requested the site notice be displayed at the premises.

At 2.19pm the same 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.

### **(E) Performance of live music (Indoors)**

Monday to Sunday 10am to 6am

#### Non Standard Timings

New Year's Eve 10am to 10am the following day.

To add one hour to the terminal hour on the night of British Summer time begins to prevent the loss of one hour trading time.

### **(F) Playing of recorded music (Indoors)**

Monday to Sunday 10am to 6am

#### Non Standard Timings

New Year's Eve 10am to 10am the following day.

To add one hour to the terminal hour on the night of British Summer time begins to prevent the loss of one hour trading time.

### **(G) Performance of dance (Indoors)**

Monday to Sunday 10am to 6am

#### Non Standard Timings

New Year's Eve 10am to 10am the following day.

To add one hour to the terminal hour on the night of British Summer time begins to prevent the loss of one hour trading time.

<p><b><u>(L) Late night refreshment (Indoors)</u></b>  Monday to Sunday                      11pm to 5am</p> <p><u>Non Standard Timings</u>  To add one hour to the terminal hour on the night British Summer time begins to prevent the loss of one hour of trading time.</p>
<p><b><u>(M) Sale by retail of alcohol for consumption ON and OFF the premises</u></b>  Monday to Sunday                      10am to 6am</p> <p><u>Non Standard Timings</u>  New Year's Eve 10am to 10am the following day.  To add one hour to the terminal hour on the night of British Summer time begins to prevent the loss of one hour trading time.</p>
<p><b><u>Opening hours of the premises</u></b>  Monday to Sunday                      10am to 6.30am</p> <p><u>Non Standard Timings</u>  New Year's Eve 10am to 10am the following day.  To add one hour to the terminal hour on the night of British Summer time begins to prevent the loss of one hour trading time.</p>

1.4 Conditions currently attached to the licence (Appendix I).

## **2.0 RESPONSIBLE AUTHORITIES**

2.1 *Environmental Health* – 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 OTHER PARTIES**

No representations.

## **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 appropriate 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.

R. Carton  
Manager of Public Protection Service

## ANNEX 1 - 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.

### **Door supervision**

(1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

(2) But nothing in subsection (1) requires such a condition to be imposed-

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or

(b) in respect of premises in relation to-

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

(3) For the purposes of this section-

(a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule

## **ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

A Steps that have been taken to promote The Four Licensing Objectives

1. Staff banned from drinking on duty
2. Records maintained of any material incidents within or in immediate vicinity of premises
3. Drugs warning notices on display
4. Zero tolerance to drugs use and dealing
5. Policy of banning customers for misbehaviour within or in vicinity of premises where deemed necessary and appropriate
6. Availability of soft drinks, non-alcoholic and/or low alcohol beverages at all

times

7. Specific staff training and supervision in assessment of customer consumption and condition
8. CCTV system installed both internally and externally
9. Retention of tapes/discs etc for minimum of 21 days
10. Licensed door staff to appropriate levels as necessary
11. No drinks hoarding
12. Pro-active policy against 'binge' drinking

B Conditions that have been agreed with The Environmental Health Authority

Public Nuisance

After 02.00hrs until closing

1. Total sound containment within the premises