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Licensing Sub Committee

Tuesday 6 August 2013

PRESENT:

Councillor Rennie , in the Chair.
Councillor Kate Taylor, Vice Chair.
Councillors Drean and Mrs Bowyer (Fourth Member).

Also in attendance: Fred Prout (Senior Licensing Officer), Marie Price (Licensing Officer), Ann Gillbanks (Senior Lawyer), David McIndoe (Devon and Cornwall Police) and Helen Rickman (Democratic Support Officer).

The meeting started at 10.00 am and finished at 12.30 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.

7. APPOINTMENT OF CHAIR AND VICE-CHAIR

Agreed that Councillor Rennie is appointed as Chair and Councillor Kate Taylor is appointed as Vice-Chair for this meeting.

8. DECLARATIONS OF INTEREST

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

(Councillor Mrs Bowyer left the meeting after this item)

9. CHAIR'S URGENT BUSINESS

There were no items of Chair's Urgent Business.

10. REVIEW OF PREMISES LICENCE - CUBA, 1 SHERWELL ARCADE, PLYMOUTH

The Committee having –

- (a) considered the report from the Director for Place;
- (b) considered written representations and heard from a representative of Devon & Cornwall Police that the crime prevention objective was not being upheld as detailed below–
 - between 1 April 2012 and 30 June 2013 there have been a total of 73 offences linked to Cuba of these 24 relate to violent offences, accounting for 35% of overall crime linked to the location (and during this period on

at least three occasions glasses or bottles were used as weapons);

- ABH accounted for 12 offences (45% of all violence);
- Malicious Wounding x 5 offences (22% of all violence);
- s.20 GBH x 3 offences (14% of all violence);
- Drunk and Disorderly x 2 offences (9% of all violence);
- 1 x Affray and 1 x Common Assault;
- in all but one of the violent offences recorded for the location the offender was a stranger to the complainant;
- in 16 of the violent offences the offender was perceived as “in drink” by the complainant;
- in 6 of the violent offences the complainant has indicated that they were “in drink”;
- 5 complainants specified that they were not in drink (all were staff/door staff at the premises);
- the majority of offenders linked to violent offences at the location are males (19 offences);
- the others were offences involving female offenders assaulting female complainants;
- there were 3 violent offences involving the use of glass/bottle recorded throughout the specified period;
- there have been a further 40 offences at the location that are not violence related, a majority of which relate to theft offences;
- theft offences account for 51% of all overall crime at the location (35 offences);
- following the research into the statistics a further offence involving a bottle was reported. At about 1.40am on Friday 26 July 2013 the DPS of Cuba was on duty when a scuffle occurred in the downstairs bar, as he tried to deal with this he was struck on the back of the head by a male holding a bottle by the neck. This caused a cut to the back of his head. The incident was captured on CCTV;
- with this latest event this means that there have been at least four occasions where glasses or bottles were used as weapons;

- the Committee was told that it is now a police policy that where a premise has more than 2 incidents of violence involving the use of glasses or bottles as weapons that a premises should be required to introduce the use of plastic drinking vessels and bottles;
- the premise licence holder has agreed conditions with the police which the police consider are appropriate to address the concerns they have on this matter;

(c) considered written representations and heard from the premises licence holder

- that the premises licence holder has owned and managed Cuba for 14 years and over this time has worked hard to make the bar successful, employing many people and entertaining, feeding and refreshing many years of students and local people;
- they are a member of both Pubwatch and Clubwatch schemes and are accredited members of Plymouth Best Bar None;
- since the review application was made by the Police have worked in partnership to produce a set of conditions that address the concerns that they have raised;
- Cuba experiences over 300,000 customer visits per annum and the number of incidents that have occurred over 14 years is small in relation to the number of visits but that any incident is unacceptable and anything that can reduce these incidents is something that would be reviewed and supported;
- as a market leader they are happy to innovate therefore we are in agreement about the need for the use of polycarbonate glassware and bottles within the venue. Have been successfully serving all spirits and shots in polycarbonate glassware since 2008 and we now feel that a move to a completely polycarbonate glassware would be appropriate in the current trading environment. In addition to the agreed conditions the following should also be attached to the premises licence:
 - all bottle beers, ciders & RTD products, draught beers and ciders, spirits, cocktails and soft drinks shall be served in non-glass containers after 00.00hrs until the close of business. Wine and champagne will be served in toughened glass;
 - the use of polycarbonate and plastic bottles is not appropriate before 0.00hrs. Cuba is a multi-use venue and caters to a variety of different customers. Restaurant food is served until late. In the evenings the venue caters for people finishing work, customers who have seen a show, been to a gig or watched a movie and the cocktail crowd. It is not until 1am that the venue

becomes a late night venue with dance floor and DJ's catering to students and like-minded people and these customers need to be able to be treated differently;

- the venue's own records show that for the 15 month period between 1 April 2012 and 29 July 2013 there was a single recorded assault attributed to Cuba before midnight. This assault was recorded as an ABH and occurred outside the premise when a member of bar staff refused a customer service as he was drunk. The only assaults where a glass or bottle have been used as a weapon have occurred after 1.30am;
- no evidence has been presented by the Police that says that it is appropriate for the promotion of the four licensing objectives to prevent the use of glass before 00:00hours (midnight);

(d) having taken into account all the relevant representations made, the members agreed:

- (1) that it was appropriate and proportionate to add conditions to the licence as agreed by both parties and to add the extra conditions proposed by Mr Dunkley related to the use of polycarbonate glassware.

Conditions to be applied to the licence:

- all staff will be fully trained to perform their role. They will also be trained in the contents of the premises licence including times of operation, licensable activities and all conditions;
- the training will be recorded in documentary form that will be available for inspection on at the time of a request by a member of any relevant authority. The records will be retained for at least 12months;
- incident reports shall be completed to record any activity of a violent, criminal or anti-social nature. The record will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident;
- the incident reports will be available for inspection at the time of request by a member of any relevant authority. The records will be retained for at least 12 months;
- the Premises shall employ door staff from 0000hrs to close of business every day;
- the door staff will control the entrance to the premises and ensure the capacity is never exceeded. That is 230 for the venue;

- the Premises Licence holder and/or DPS will ensure door staff are properly briefed and trained to manage queues in a safe and efficient manner;
- the Premises Licence Holder and the DPS will maintain a register of door staff employed at the premises. The register will detail the day, time and date the door staff commenced duty, full name legibly written, SIA licence number, the name of the employer, the time duty ends and the name of the person in charge of the premises on that date. The register will be kept at the premises and be available for inspection at the time of request by a member of any relevant authority. The records will be retained for at least 12 months;
- the Premises Licence Holder will ensure that a CCTV system which is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document (www.informationcommissioner.gov.uk) regarding installation of CCTV is provided at the premises;
- the CCTV will cover all areas of the premises to which the public have access including any outside areas;
- images will be retained for a minimum of 21 days;
- the system will be capable of downloading images to a recognizable viewable format;
- at all times the premises are open for business a member of staff will be available who is capable of operating the system and downloading images at the request of police or a member of a responsible authority;
- the CCTV system will be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises;
- the Premises Licence Holder or Designated Premises Supervisor shall ensure that all bar staff, supervisors and managers are trained in the legality and procedure of alcohol sales prior to undertaking the sale of alcohol and then at least every six months;
- training shall be signed and documented and training records will be kept on the premises and be made available to an enforcement officer on request;
- the documentation relating to training should extend back to a period of one year and should specify the time, date and details of the persons both providing the training and receiving the training;

- all bottled beers, ciders & RTD products, draught beer & ciders, spirits, cocktails and soft drinks shall be served in non-glass containers after 00.00hrs until the close of business. Wine and champagne will be served in toughened glass;
- change “staff banned from drinking on duty” to “staff prohibited from consuming alcoholic drinks whilst on duty”;
- remove “Records maintained of any material incidents within or in immediate vicinity of premises” as it has been superseded by new conditions;
- remove “Licensed door staff to appropriate levels as necessary” as it has been superseded by new conditions;
- remove “CCTV system installed both internally and externally” as it has been superseded by new conditions;

11. **MR GUNEY NACI 1. TRANSFER OF PREMISES LICENCE 2. VARY LICENCE TO SPECIFY INDIVIDUAL AS PREMISES SUPERVISOR**

The Committee having –

- (a) considered the report from the Director of Place;
- (b) heard from the applicant in respect of both applications that:
 - he had put some posters up in the premises regarding the Challenge 25 procedure;
 - he had started a refusal register;
 - he had gone online and printed some information explaining the details of the Challenge 25 procedure;
 - he believed he should be given a second chance with this application as he was training himself with information he had got from the internet;
 - he was trying harder to obey the rules for this new property;
 - he had made some approaches to officers but had not received any information or CDs to carry out training;
 - he has been a victim of violence in his previous property for refusing to sell alcohol and tobacco to underage individuals;
- (c) heard from a representative of Devon and Cornwall Police that the applications would undermine the crime prevention objective as follows:

- that on the 30 April 2013 the applicant (who was at the time the Premises Licence Holder and DPS of a Corner Shop at 81 North Hill Plymouth) appeared before the Council's Licensing Sub Committee for a review of their licence brought by the Police;
- at that meeting the Committee revoked the premises licence of the Corner Shop as a result of the repeated sale of alcohol to minors;
- the police considered that the applicant had a total disregard for operating within the licensing act provisions; he did not understand the requirements of managing a premises selling alcohol and did not take up several offers for help and advice in managing the premises and also in provision of suitable training;
- his previous premises was subject to three test fails;
- at the time of the last review of the Corner Shop premises, underage sales were still allowed during the review application period;
- the Corner Shop was left with such a poor reputation that a cool-off period was required until September as it was a magnet for people requiring underage sales under the old management;
- Mr Naci has been provided with information, both by the police and Plymouth City Council officers, as to where he could obtain accredited training which had not been taken up;
- at no time had Mr Naci demonstrated he was willing to properly engage with responsible authorities and officers of the council to resolve the issue of management of sales;
- the council trading standards officer had sent Mr Naci an email which contained a link to SWERCOTS training which he had not acknowledged to the officer and had made no effort to complete this online training;
- the police had no confidence that Mr Naci would work with them in the future to remedy the previous faults with underage sales and therefore requested that the application be refused;

(d) the Committee had concerns that –

- Mr Naci couldn't recall the conditions of his licence when asked by the police;
- the accuracy of Mr Naci's information about the members of staff working at his premises;

- he had not completed the accredited SWERCOTS training and had not demonstrated sufficiently that he understood the need to keep records or how to store and record information about sales and training of staff;
- the police felt that he was unable to engage with the responsible authorities and council officers;
- Mr Naci had a lack of understanding of the identification types he was able to accept under Challenge 25;
- Mr Naci failed to demonstrate that he had sufficient knowledge of the licensing legislation and the conditions of his licence;
- the diary which was presented as the record of refusals was incomplete and did not contain sufficient information to identify who the person was and the nature of the refusal;
- Mr Naci has made little or no effort to prove that he has adequately satisfied the necessary/ requirements to be a premise licence holder and premise supervisor;

(e) having taken into account all the representations made:

- (1) the Committee consider it necessary for the promotion of the crime prevention objective that both applications should be rejected as they are satisfied by the Police evidence that the grant of the licence would be detrimental to the promotion of the crime prevention objective.

12. **EXEMPT BUSINESS**

There were no items of exempt business.