

Licensing Sub Committee

Tuesday 26 November 2013

PRESENT:

Councillor Rennie, in the Chair.
Councillor Parker, Vice Chair.
Councillors Monahan and Mrs Nicholson (fourth member).

Also in attendance: Catherine Fox (Lawyer – observing), Ann Gillbanks (Senior Lawyer), Fred Prout (Senior Licensing Officer) and Helen Rickman (Democratic Support Officer).

The meeting started at 10.00 am and finished at 10.50 am.

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.

29. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

30. DECLARATIONS OF INTEREST

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

31. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

32. BACARO BITES, 6 QUAY ROAD, PLYMOUTH - REVIEW OF PREMISES LICENCE

The Committee having –

- (a) considered the report from the Director of Place;
- (b) heard from a representative of Devon and Cornwall Police that protection of children from harm objective was not being upheld as detailed below –
 - despite the failure of two Test Purchase Operations in February and April 2013 and the subsequent suspension of the premises licence under Section 169A of the Licensing Act 2003 in July 2013 the DPS had failed to effectively supervise and implement an under-age sales policy at the premises.

- the test purchase operations referred to are as detailed below:-
 - 15 February 2013, 21:30hrs – two vodka and cokes were sold to a 16 year old test purchaser by a male bar person, he admitted the sale stating he had made a mistake. The bar person was issued a PND on 20 February 2013 which has been paid;
 - 26 April 2013, 21:35hrs – three vodka and cokes were sold to a 16 year old test purchaser buy a female bar person, she admitted the sale. The bar person was issued a PND on 20/02/13 which has been paid;
 - 6 June 2013, 16:05-10:20hrs at Charles Cross Police Station the Designated Premises Supervisor for Bacaro was interviewed by a police constable and an officer from Plymouth City Council Trading Standards Department. The DPS accepted the two sales and did not challenge any of the evidence presented. The DPS admitted getting a copy of a letter from the Trading Standards Officer in between the two sales and as a result of this she arranged further training with all staff through an independent training company. This training was delivered on 21 July 2013. She stated all new staff would now get an induction package which they will have to pass and sign for on receipt. Both sellers of the alcohol to children on 15 February 2013 and 26 April 2013 have been given written final warnings by the DPS. A new refusals register operating from the till is now in operation;
 - these breaches of license were dealt with under section 169A (2) of the Licensing Act 2003 by Superintendents closure notice between 06:00hrs on 12 July 2013 to 06:00hrs on 14 July 2013;
 - 26 September 2013, 21:07-21:10hrs – three Bottles of lager were sold to a 16 year old test purchaser by a male bar person, he admitted the sale. The bar person was issued with a PND;
 - 3 October 2013– at Charles Cross Police Station the Designated Premises Supervisor for Bacaro was spoken to by two Police licensing officers concerning the failure of a Test Purchase Operation. She was informed that the case would be sent to the Plymouth City Licensing Authority for Review of her Licence for Bacaro. She was also asked about what measures she had put in place after the Superintendents Closure notice on 12 to 14 July 2013;
- the Police representative proposed to the Committee that the following conditions were added to the premises licence -

- under the Protection of Children from Harm licensing objective
 - 1 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, using the SWERCOTS on-line training pack or equivalent, 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 12 months and should specify the time, date and details of the persons both providing the training and receiving the training;
 - 2 all staff shall be trained in the requirements of the Challenge 25 policies;
 - 3 all staff shall be suitably trained in the operating procedures for refusing service to any person who is drunk or is under-age or appears to be under-age;
 - 4 the Premises Licence Holder or Designated Premises Supervisor shall ensure a sales refusal register is maintained to include details of all alcohol sales refused and the reason for the refusal. The refusals register should be made available to an authorised enforcement officer on request;
 - 5 a till prompt system shall be installed to assist staff by reminding them to challenge for ID when a sale is made;
 - 6 the Premises Licence Holder or Designated Premises Supervisor shall have a written age verification policy in relation to the sale or supply of alcohol. This policy will include documented steps taken to prevent Under 18s from purchasing alcohol and will specify a Challenge 25 proof of age requirement before sales of alcohol are made as approved by the Plymouth City Council Trading Standards responsible authority;
 - 7 the Licence Holder or Designated Premises Supervisor shall ensure that new bar staff, supervisors and managers receive induction in the legality and procedure of alcohol sales, prior to undertaking the sale of alcohol. Training shall be signed and documented and training records be made available to an enforcement officer on request for up to 12 months;

- under the Prevention of Crime and Disorder licensing objective;

- 1 any person managing or supervising staff in the sale of alcohol or other licensable activity in the absence of the DPS shall be the holder of a personal licence obtained from a nationally recognised body;
- 2 an incident book shall be maintained 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 book shall be available for inspection at all reasonable times by an authorised officer of relevant responsible authority. The records will be retained for at least 12 months;
- 3 all door staff shall be trained in the requirements of the Challenge 21 policies, the identification and recognition of drunks and the correct procedures to be followed when refusing service;
- 4 all door supervisors will wear high visibility clothing and display their SIA badge in an approved method (i.e. arm display badge holder) at all times;
- 5 the Premises Licence Holder and/or Designated Premises Supervisor shall ensure that the following details for each door supervisor are contemporaneously entered into a bound register kept for that purpose:
 - (i) Full name;
 - (ii) SIA Certificate number and/or badge number, or registration number of any accreditation scheme recognised by the Licensing Authority (including expiry date of that registration or accreditation);
 - (iii) The time they began their duty;
 - (iv) The time they completed their duty;
 - (v) The full details of any agency through which they have been allocated to work at the premises, if appropriate;
- 6 the register shall be available at all reasonable times to an authorised officer of the Licensing Authority or a police constable;
- 7 this register is to be kept at the premises at all times and shall be so maintained as to enable an authorised officer to establish the particulars of all door staff engaged at the premises during the period of not less than 12 months prior to the request.

- under the Prevention of Public Nuisance licensing objective:
 - I Premise Licence Holder and/or Designated Premises Supervisor or Door Supervisors will be responsible for ensuring the safe, quiet and orderly dispersal of customers from the premises and the immediate vicinity of the premises.
 - under the Public Safety licensing objective:
 - I the Premises Licence Holder and/or Designated Premises Supervisor and/or Door Supervisors shall ensure that any outside area included in the Licence will be controlled in a safe and effective manner to the same standard operated within the premises building and will pay special attention to the impact that the use of the outside area has on the surrounding community;
 - the police advised that the DPS had accepted the conditions under the heading protection of children from harm and that the conditions under the other licensing objectives were also accepted and she will make an application to have these added to the licence via minor variation;
- c heard from the premises licence holder/DPS as follows-
- the DPS confirmed the information given to the Police on the 6 June 2013;
 - the DPS had arranged for an outside company to conduct training with her staff;
 - the DPS had implemented a check under the Challenge 25 age Policy and specified that only passport, drivers licence and PASS cards would only be accepted as forms of ID;
 - the DPS had also implemented a refusal register which is logged via the till system and recorded on the till receipt;
 - the DPS stated that she felt badly let down by her staff and intended to spend more time at the premises to supervise her staff and enforce her policies;
 - the DPS had also subsequently terminated the employment of the staff involved in the latest incident;
 - the DPS read out two letters of support from the police regarding her overall management of the premises;

- the DPS did accept the police report and felt let down by her staff;
- the DPS made an assurance that by agreeing the conditions this would not happen again;
- the DPS had been in the trade herself for over 12 years and in this premises since 2005 and had pride in the premises and what she does;
- that apart from the matters which were the subject of this review there were no other Police record of violent incidents at the premises;
- that they were a member of the best bar none;
- to increase the vigilance of the door staff the DPS had prepared a statement regarding the admittance of underage people that the door staff sign at the beginning of each shift;
- the DPS had made a major management decision to let the previous manager go and was taking a more active role in managing the premises including adhoc checks when she would not normally be on duty;
- the DPS believed that the rules were important and that with the conditions which were agreed with the Police further incidents should not occur.

The Committee was concerned that three test purchases had been undertaken at the premises and all had failed and noted that one of the test purchases took place after a period of closure by the exercise of Police powers under s.169(A) (2) Licensing Act 2003

The Committee considered that the seven conditions proposed by the Police under the heading of Protection of Children from Harm would adequately address the future concerns for the control of sale of alcohol to children.

The Committee were unable to consider the Police remaining proposed conditions under the headings Prevention of Crime and Disorder, Prevention of Public Nuisance and Public Safety as no representations or evidence had been put before them for consideration under these licensing objectives in this review application. But the committee did acknowledge that the premises licence holder made an assurance that she would add these conditions to the licence by way of minor variation.

Having taken into account all of the representations and the assurances given by the DPS at the hearing the Committee agreed it was appropriate to impose upon the premises licence the seven conditions put forward by the Police under the heading of Protection of Children from Harm.

33. **EXEMPT BUSINESS**

There were no items of exempt business.