

## Licensing Sub Committee

Tuesday 15 April 2014

### PRESENT:

Councillor Rennie, in the Chair.  
Councillor Jordan, Vice Chair.  
Councillor Mrs Bowyer.

Apologies for absence: Councillor Gordon.

Also in attendance: Ann Gillbanks (Senior Lawyer), Rhodri Morgan (Environmental health Officer), Fred Prout (Senior Licensing Officer) and Helen Rickman (Democratic Support Officer).

The meeting started at 10.00 am and finished at 1.00 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.*

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

Agreed that Councillor Rennie is appointed Chair and Councillor Jordan is appointed Vice Chair for this particular meeting.

68. **DECLARATIONS OF INTEREST**

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

69. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

70. **OMG OF THE PARADE, BARBICAN, PLYMOUTH VARIATION OF PREMISES LICENCE**

The Committee having –

- (a) considered the report from the Strategic Director for People;
- (b) considered the representations (written and in person) from Devon and Cornwall Police, Environmental Health Officers and Ward Councillor;
- (c) heard from the applicant, the applicants witness and the applicant's solicitor that:
  - this was an application by OMG to extend the hours to 04.00 Sunday to Thursday. That OMG is a nightclub for the gay community who do not create crime and disorder as they don't necessarily go to the club for alcohol;

- the club is not a high volume vertical drinking establishment and not testosterone filled. It catered for a broad range of ages and that there was a distinction between OMG and other bars/clubs;
- the premises have been open since December 2013 and have held 9 TEN's events until 4am on Wednesday nights. There has been no crime and disorder related to the venue and no validated noise outbreak from the premises or noise complaints from the customers;
- the cumulative impact policy creates the presumption that the application will not be granted but this policy must be regarded with care as it does not preclude applications by well run, smaller impact premise applications being granted;
- OMG is the biggest gay community club brand and estimated to be worth £4m by the end of the year. It has never had a review of licence. Have worked alongside Bristol City Council to set policy. OMG will have a positive impact on tourism in the area as 50% of the trade travel to the club. The next nearest similar venue is 120 miles. Customers bring the pink pound to the area which is a boost to the local economy, and also boost local trade through use of taxi's and hotels;
- OMG would not add to the incidents of violent crime and disorder the area as the people going there are more likely to be victims of crime rather than creating;
- on operational points, OMG use all polycarbonate vessels, have SIA controlled door staff. It allows customers to use electronic cigarettes in the premises which cuts down the number of smokers outside the premises;
- noise monitoring had been carried out at 11pm on a Monday evening to assess the noise breakout from the music. The music could not be heard in between the passing traffic noise at the rear of the premises on Vauxhall Street. Around at the front, on The Parade some music could be heard, but less than car radio level. Smoking area is outside on The Parade so is remote from residents in Vauxhall Street;
- OMG has good external supervision and has a noise policy with a telephone number for residents to ring and such calls will be logged and will be able to demonstrate any issues over the 12 months period applied for. No drinks will be allowed to be taken outside of the premises;
- formally proposed to committee that they wished to remove Monday and Tuesday from the application for variation;

- people who come to OMG will be well behaved as they know that OMG will ban anyone from the premises who causes problems. The premises have had no problems reported for the 9 TEN's events already held and only one unsubstantiated noise complaint in the time they have been opened;

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

- Prevention of Public Nuisance

(d1) • heard from an Environmental Health officer who stated that:

- the applicant had not demonstrated within the application how the extension of hours until 4am during weeknights of Sunday to Thursday would not have an impact on the surrounding local residents;
- the premises are close to residential properties and assessment of impact of this extension of hours on these properties had not been provided by the applicant;
- the extension of the licence during midweek is not appropriate to the area;
- there is a potential for a wide range of residents to be affected by noise generated from the club (whether music or people) and if the application was successful, there is a potential for 200 people "in drink" to be leaving a very quiet area, very early in the morning and causing disturbance in the vicinity when they would reasonably expect a good night's sleep;
- given the nature of the area, residents are likely to be accustomed to a certain level of noise on Friday and Saturday nights and also on Banks Holidays, but expect a reasonable amount of comfort during weeknights when they are likely to be working the following morning;
- the vast majority of people on the Barbican have left the area by between midnight and 1.00am and noise levels after these times generally decrease quite significantly;
- this application is proposing a possible increase on noise levels which currently do not occur. There is also the potential for noise from taxis waiting to pick-up customers late at night outside the premises;
- the Cumulative Impact Policy has been adapted to protect the local residents. There is a potential knock-on effect on the community by the premises attracting patrons who currently are not in the area. The granting of this application will encourage other businesses to apply for similar timings and the knock-on effect is that precedents will be set and there is the potential for the area to develop from an evening-night time area based on bars and restaurants to a late night

clubbing type area, similar to other less residentially populated areas within the city, seven days a week;

- there is a potential that if the licence is granted as applied that the licensing objective for the prevention of public nuisance and public safety will be undermined. The premise is located within a mixed used area with residential premises within 20 meters on three sides;
- only one unsubstantiated noise complaint had been received about the premises;
- happy with noise report submitted so long as the bay windows at the front of the premises are kept closed;
- invited the Committee to refuse the application;

(d2)

- heard from the Ward Councillor that:
- the area is covered by a cumulative impact policy and as such evidence from responsible authority and residents should be considered;
- she had visited the elderly people in Brook House who had told her of a problem with noise from the rear façade of the building. Some of the residents were on medication and using ear plugs to cope with problems from noise from glass being tipped into bins after closing time and bands leaving from this rear door;
- as the bedrooms of these residents face the rear façade there needed to be a better management of the rear doors;
- when these doors were open the noise is really loud and was not being managed;
- invited the Committee to refuse the application;
- Prevention of Crime and Disorder –
- heard from the representative for the Police that:
- the premises are situated in the Barbican area of Plymouth. This is an area designated a Cumulative Impact Area as adopted by Plymouth City Council. Statistics were provided in respect of the evidence of crime and disorder in the area which led to the imposition of the cumulative impact area.
- OMG management operated to good standards and were no problem to the Police;
- Police evidence shows that the majority of crime in this area occurs between the hours of 18.59 hours and 0300 hours on Monday to

Thursday and figures indicate that in the small area surrounding the premises have resulted in: 39% of all reported crime 2011 42% of all reported crime 2012 39% of all reported crime 2013;

- if granted the extension of hours will significantly increase the footfall within the area up to and including 0430 hours;
- if the application is granted it is the Police contention that it will have a negative impact on the Licensing Objectives of Prevention of Crime and Disorder and the Prevention of Public Nuisance;
- the premises are in close proximity to numerous residential properties the effect of 200 people entering and exiting the club until 0330hours for regulated entertainment/alcohol will inevitably generate noise, anti-social behaviour and alcohol related crime which does not exist on Monday to Thursday at this time;
- evidence will show that during these days there is little or no crime in the area after 0300hours;
- the police consider that the applicant does not provide sufficient detail to as to how the applicant intends to manage the smoking area or the dispersal of patrons at the end of trading;
- that the application should be considered on its merits of being a licenced premises and impact that the additional numbers would place upon the licensing objectives;
- invited the committee to refuse the application;
- Protection of Children from Harm
- no representations heard under this licensing objective
- Public Safety
- no representations heard under this licensing objective

When reaching its decision the Committee has to have regard for its licensing statement of policy and the guidance issued by the Home Office.

The licensing policy provides for a special policy in respect of the Barbican, the area within which the premises are situated. The policy states that where an application for variation will be refused where a relevant representation has been received and it is anticipated that the application will add to the problems of crime and disorder and/or public nuisance in the area and the applicant has been unable to demonstrate, within their operative schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

In considering the representations made by the applicant the committee did not consider that the reference to pink pound and the impact this would have on the local economy was a relevant consideration under the licensing objectives.

Members noted that the management had already demonstrated that they had been able to control, without complaint, the impact the additional opening hours would have upon the local area on 9 occasions this year and that there had been no complaints against the premises since opening in its current form in 2013. Members also noted that the proposal within the application was for a trial period of 12 months and that a reduced occupancy number of 200 were proposed for the extra hours applied for. Members considered that the proposal to have no re-entry to the premises after 03.30 hours was not workable as they considered that in accordance with representations made people should be leaving at this time and would expect numbers to be managed accordingly.

Members considered the representations put forward on behalf of residents but considered that these could be addressed by placing conditions upon the premises.

Having listened to all that was said today the committee consider that they can depart from the special policy for this application and that it is proportionate to grant the application subject to conditions which are considered appropriate for the furtherance of the licensing objectives.

The Committee therefore Agree to grant the application subject to the following conditions being added to the licence:

1. as the premises are in a cumulative impact area the variation of the permitted licensable activities opening hours of 12 noon to 04.00am Wednesday to Sunday, shall be permitted for a period of six months from the date of this variation and thereafter the said hours shall revert to those permitted prior to this variation unless the licence holder shall make a further application for a variation which shall be accompanied by a statement showing the impact of the variation on the cumulative impact area policy;
2. the capacity of the premises shall be reduced to 200 on Wednesdays and Thursdays;
3. signs will be provided in prominent locations indicating free drinking water available on request;
4. at times when premises are open after midnight a minimum of 2 SIA registered door staff will be employed from 22:00hrs for the first 100 persons and then a ratio of 1:100 persons thereafter;
5. existing conditions to be reinforced by a “challenge 25” policy;
6. during opening hours the management will control the exit of customers to only allow exist from the premises via doors to The Parade (except in the event of emergency);

7. the outside smoking area should be limited to a maximum of 20 people at any one time and this is to be controlled and regularly monitored by management during the extra hours granted in the variation application of 2.00am to 4.00am Wednesday, Thursday and Sunday;
8. to keep the bay windows of the premises closed to avoid noise breakout;
9. to publish a contact number which can be used by residents to report or raise concerns that they have about the premises;
10. amend existing condition 3 (Annex 2) to change the number of days for keeping CCTV records from 14 to 28 days;
11. amend existing condition 8 (Annex 2) to say “Sound levels after midnight will be monitored, and recorded, every 30 minutes to ensure no disruption to local residents and no volume escaping the building. The logs to be kept and made available to the responsible authorities and licencing officers for inspection.”

71. **EXEMPT BUSINESS**

There were no items of exempt business.