

# Licensing Sub Committee

**Tuesday 12 August 2014**

## **PRESENT:**

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

Also in attendance: Sharon Day (Lawyer), Fred Prout (Senior Licensing Officer) and Lynn Young (Democratic Support Officer).

The meeting started at 10.00 am and finished at 1.05 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.*

## 6. **APPOINTMENT OF CHAIR AND VICE-CHAIR**

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

## 7. **DECLARATIONS OF INTEREST**

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

## 8. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

## 9. **MARGO'S AT MOUNT WISE, 2 CHARLES DARWIN ROAD, DEVONPORT, PLYMOUTH - GRANT OF PREMISES LICENCE**

The Committee having –

(a) considered the report from the Director for Public Health:

(b) heard from the applicant that:

- He will have CCTV at the premises;
- Staff will be CRB checked;
- They will have a challenge 21 underage sales policy;
- Alcohol will only be served with food;
- They are not seeking to attract a rowdy clientele;
- The alcohol sales are an add on to the main business which will be a deli, café and shop;

- Only bottled beer and wine will be served;
- There is no bar in the premises;
- They have a no drugs policy and a four drink policy;
- Noise will be kept to a minimum;
- One member of staff will be working at the counter with another on the shop floor;
- He lives in the village;
- The application no longer included off sales following consultation with the police;
- He would be happy to restrict delivery times to address the concerns of local residents;
- The maximum capacity of the premises is 60 people which is a figure set by the fire authority. There will be approximately 19 tables;
- There is no application for an outside seating area. This would form a separate application at a later date if necessary;
- He sees the premises as being a social hub for the village;
- The location of a smoking area is under discussion with the developer as is storage for refuse;
- He was willing to restrict the times when he would dispose of glass in response to representations from local residents;
- He has been in the trade for 25 years, has had residents meetings and provided his contact details to local residents in case there are any problems;
- He was happy for the smoking area to be monitored with CCTV and noise monitoring equipment;

(c) Considered the written and verbal representations made by local residents (including a petition) as follows:

Prevention of Public Nuisance:

- The premises are situated with residential properties both directly above, next to and opposite. There was concern that the residents would be disturbed by noise from the premises until 10 pm. Residents felt that the hours of operation were excessive and should be reduced to avoid disturbing the peace and quiet of a residential area. One resident suggested that the hours of operation should be limited to 10 am to 8 pm on a Sunday and 8.30 am to 9.30 pm on a Monday to Friday. Concerns were also raised about potential noise issues from the smoking area.

This was relevant under this licensing objective but members considered that the concerns could be addressed by conditions 1 – 4 set out below.

- There was concern from local residents about noise and disturbance from deliveries taking place at the premises at times outside of the operating hours.

This was relevant under this licensing objective and members considered that the concerns could be addressed by the imposition of condition 5

below.

- There was a potential for a nuisance to be caused from deliveries taking place in that they would cause disruption to the free flow of traffic as the road is a narrow and busy single lane street which is one of the main access roads to other parts of the residential estate.

This was relevant under this licensing objective however the only matter before the committee was that of the retail sale of alcohol and committee did not consider that deliveries of alcohol would be excessive from the information they had been given. If problems did occur then this would be a matter for other agencies to enforce.

- There was a potential for light pollution to affect residential premises nearby.

This was relevant under this licensing objective however the committee did not consider that this was a problem which was linked to the hours of operation for the licensable activities applied for.

- There was concern that the use of an outside seating area for dining and alcohol consumption would cause noise problems for the nearby residents due to their proximity to the premises and hours of operation.

This was not relevant as there was no application for the use of the outside area.

- There was concern that there was a potential for smells from any kitchen waste ventilation system.

This was not considered to be relevant to the application which was for the retail sale of alcohol.

- There was a potential for noise, mess, smells and vermin if the appropriate provision for disposal of food, glass and other waste was not dealt with appropriately.

This was relevant under this licensing objective but only with regard to its link to the licensable activity applied for. The committee considered there was a potential noise problem from glass bottles being disposed but that this could be addressed by condition 6 below.

- There is limited parking in the area and there is already an issue with a shortage of on-site parking spaces. The area outside the premises has very limited access for pedestrians and motor vehicles. The existing small car park is thought to be for use for Tesco's.

This was not considered to be relevant under any of the licensing objectives as parking and road traffic issues were matters for enforcement

by other agencies.

- There was a potential for litter problems from smoking and takeaway containers.

This was relevant under this licensing objective in relation to smoking as food did not form part of the application for consideration by the committee. With regards to potential litter problems associated with smoking the committee felt this would be addressed by condition 7 below.

#### Prevention of crime and disorder

- There have been past problems in the area with anti-social behaviour and alcohol abuse which are now under control due to work from many agencies. If this licence was granted the problems could resurface particularly with the off sales of alcohol.

This was relevant under this licensing objective however the committee took account of the fact that off sales had been removed from the application and there had been no sustained representation by the police on this point. Therefore on the information they had been given the committee did not consider that the grant of a licence would contribute to a recurrence of the issues in the area.

#### Public Safety

- Having an outside seating area would cause disruption to the safe passage of pedestrians and vehicles.

This was not considered to be relevant as no application had been made for the use of the outside area.

#### (d) Other representations

There were written representations from local residents querying whether the premises had the correct planning permission to operate as applied for. Additionally a representation was made that there was a current Designated Public Places Order being considered for the area. Neither of these matters were considered by the committee as they do not relate to any of the licensing objectives.

Having taken account of all of the relevant representations, representations by the applicant, the Council's licensing policy and Home Office guidance, the committee agreed that it was appropriate and proportionate to grant the application for on sales only. The grant of this licence is subject to the mandatory conditions contained in the Licensing Act 2003, conditions consistent with the applicant's operating schedule, conditions agreed with the Police and the additional conditions listed below. The committee did not consider it appropriate to impose the conditions put forward by Environmental Health because they were not relevant as there was no application for the use of an outside area.

Additional conditions imposed by the committee:

1. No licensable activities shall take place at the premises unless and until a designated and delineated smoking area is in place. Any smoking area must not be positioned in front of the premises.
2. The smoking area must be linked up to the CCTV system so that it can be monitored by the premises licence holder or nominated person.
3. The premises licence holder or nominated person shall monitor and control levels of noise in the smoking area and advise customers of the need to respect local residents. Any patrons continuing to cause any disturbance or disorder will be asked to leave the premises.
4. The premises licence holder shall ensure that a record of all monitoring of the smoking area is recorded and such records made available for inspection by any officer of a responsible authority.
5. Alcohol deliveries shall only be permitted between 9 am and 5 pm on weekdays. No alcohol deliveries shall take place at weekends.
6. Glass bottles shall not be disposed of into outside bins/containers before 9am or after 7 pm.

10. **COMMERCIAL SERVICE STATION, 9 CHAPEL STREET, DEVONPORT, PLYMOUTH PLI 4DP - VARIATION OF PREMISES LICENCE**

The Committee having –

- (a) considered the report from the Director for Public Health;
- (b) heard from the applicant that:
  - The service station was a twenty four hour operation which offered cold snacks and drinks at the moment. They had originally applied for a twenty four hour alcohol licence but following consultation with the Police had reduced this to 8 am to midnight;
  - The application for late night refreshment was really to cover the sale of hot drinks. Hot food would be a minimal part of the business and they were happy to be limited to the sale of hot drinks only if committee thought this was appropriate having considered the representations;
  - The police had made representations but withdrawn them and there had been no other representations from other responsible authorities;
  - With regard to the proposed DPPO for the area the applicant was happy to support this but did not consider granting the licence would undermine it in any way or contribute to street drinking;
  - The company had 200 service stations already;
  - With regard to attracting late night revellers, the applicant stated that they already open until 11 pm and the only problems they have ever had were

- minor thefts which did not involve theft of alcohol;
- The alcohol is positioned next to the counter and the shop doors are closed from 11 pm onwards;
- Schools will not be open during the time the variation application is made for;
- With regards to litter there was other legislation to deal with any associated problems;

(c) considered written and verbal representations from other parties:

#### Prevention of Crime and Disorder

- There is an existing problem with street drinkers and associated anti-social behaviour which has resulted in an application for a DPPO for the area which is currently under consideration.

This was relevant under this licensing objective however the committee considered that the conditions agreed with the Police would prevent any potential problems.

- The premises are situated within a few metres of a hostel for persons with drug and alcohol dependency issues.

This was relevant under this licensing objective however the committee considered that the conditions agreed with the Police would prevent any potential problems.

- The premises are on the main route home from the City Centre and may attract already intoxicated people on their way home from clubs and bars in town late at night or early hours of the morning.

This was relevant under this licensing objective however from the information it had been given the committee did not consider that this would be a problem.

#### Public Safety

- It is not appropriate for a garage to sell alcohol to drivers at all let alone 24 hours a day.

This was not considered relevant under this licensing objective.

- It is not appropriate to permit sales to people who are already intoxicated on their way home from clubs and bars in town late at night or in the early hours of the morning.

This was considered to be relevant under this licensing objective however the conditions agreed with the Police would prevent any problems and in addition there was other legislation to deal with some of the issues raised.

### Prevention of Public Nuisance

- Sales will attract additional noise, litter and anti social problems at night. The premises are next to a new residential estate where the problems will become intolerable.

This was relevant under this licensing objective however the committee did not consider this would be a problem having considered the extent of the application.

- The sale of food items is expected to cause a significant increase in litter within the vicinity.

This was relevant under this licensing objective but as the premises already sell cold snacks and drinks, the committee did not consider there would be any potential additional impact.

- With so many retailers selling alcohol in the area the incidences of anti-social behaviour will significantly increase.

This was relevant under this licensing objective however the committee did not consider that this was a potential problem having considered the conditions agreed with the police and the extent of the application.

### Protection of Children from Harm

- There is a primary school within 20 yards of the premises as well as other schools nearby. There may be problems with underage sales purchases and young families being exposed to behaviour associated with alcohol abuse.

This was relevant under this licensing objective however no schools would be open for the period applied for with this application and there were conditions in place to deal with potential underage sales.

Having taken into account all relevant representations, representations made by the applicant, the Council's licencing policy and Home Office guidance the committee agreed that it was appropriate and proportionate to grant the application (with the hours amended as detailed in the report) subject to the mandatory conditions contained in the Licensing Act 2003, conditions consistent with the applicant's operating schedule and conditions agreed with the Police.

## 11. **EXEMPT BUSINESS**

There were no items of exempt business.