

Licensing Sub Committee

Tuesday 21 October 2014

PRESENT:

Councillor Rennie, in the Chair.
Councillor Ball, Vice-Chair.
Councillors Hendy (Fourth Member) and Singh.

Also in attendance: Ann Gillbanks, Senior Lawyer, Fred Prout, Senior Licensing Officer, Rachel Hind, Senior Environmental Health Officer, and Katey Johns, Democratic Support Officer.

The meeting started at 10.10 am and finished at 2.15 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.

23. APPOINTMENT OF CHAIR AND VICE-CHAIR

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

24. DECLARATIONS OF INTEREST

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

25. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

26. QUEENS ARMS, SEVEN STARS LANE, PLYMOUTH - REVIEW OF PREMISES LICENCE

The sub-committee considered –

- (a) the report from the Director for Public Health;
- (b) the review application, written and oral submission of the Environmental Health Officer as follows –
 - (i) information was provided about the various communications that had taken place between Environmental Health, the Designation Premises Supervisor (DPS) and Premises Licence Holder (PLH) in relation to the complaints about noise. Correspondence started on the 12 May 2014 and has continued since. In addition there have been meetings and telephone calls to try and resolve the noise problems. Solutions have

been suggested by Environmental Health in relation to the restriction of the use of the outside area, an action plan and installation of a noise limiter. To date though the action plan has not been returned, no noise limiter has been installed and the use of the outside area continues beyond 11pm causing numerous complaints from residents;

- (ii) Environmental Health provided details of the complaints they had received from local residents about noise and also evidence of noise nuisance being witnessed by its officers. Noise diaries were kept by complainants and submitted for consideration to the committee. Unacceptable noise was witnessed by officers on the 6 June 2014, 27 June 2014 and 29 August 2014. The statements provided identify the noise as coming from music being too loud so much so that the lyrics of songs could be identified outside the premises. An officer also witnessed the DPS being abusive to a resident who complained to her about the level of the noise on the 6 June 2014. On the 27 June 2014, the officer witnessed doors being left open and loud recorded music coming from pub. Talking and shouting from patrons in the pub's beer garden was loud in complainant's bedroom and also bass beat from the music playing in the pub was also audible in a bedroom. On the 29 August 2014 officers witnessed noise from 20 patrons congregating in the outside area of the pub. They were described as being very loud, shouting and laughing and were the most prominent noise in the area. The officers considered that the noise would have disturbed local residents as the time was approximately midnight. During the 20 minutes they remained at the premises they didn't witness any member of staff trying to control the noise;
- (iii) evidence was contained in a witness statement from a local resident of the nuisance problems she has suffered from loud music and karaoke which has disturbed her from sleeping and resting. She has also witnessed violence and anti-social behaviour coming from the pub. A particular incident was on the day of the Tamerton Foliot Carnival which resulted in a fight and the police having to be called. She reported that people using the beer garden are often very inebriated and use horrendous language so that she is unable to sit with her children in her garden through fear of the sort of things they will hear;
- (iv) Environmental Health recommended the removal of the DPS due to public nuisance caused having been given numerous opportunities and assistance from Environmental Health and the Police. They were of the opinion that noise issues could be controlled with the imposition of the following conditions -

Noise Nuisance

- I no regulated entertainment will take place until a noise limiting device (the specification and design to be agreed with Environmental Health Service) is fitted so that all regulated, live, Karaoke and recorded music (including the Juke Box) is

- channelled through the device(s). The maximum noise levels will be set by agreement with the Environmental Health Service and will be reviewed from time to time as appropriate;
- 2 the noise limiting device must be fully functional and in proper working order at all times during performances of live and recorded music.
 - 3 no performances of live and recorded music can proceed without the noise limiting device in proper working order;
 - 4 if the noise limiting device breaks down the Premises Licence Holder shall ensure that the Designated Premises Supervisor, or other responsible person verbally informs the Environmental Health Service as soon as reasonably practicable. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay;
 - 5 all doors and windows shall be kept shut during regulated entertainment except for access and egress;
 - 6 all doors and windows shall be maintained in good order;
 - 7 staff shall check prior to the commencement of regulated entertainment, and periodically during regulated entertainment that all windows and doors are shut;
 - 8 noise emanating from the premises shall not be heard above background levels 1 metre from the facade of the nearest residential property;.
 - 9 the performance of live entertainment will cease by 23:00 hours;
 - 10 the performance of live entertainment by three or more performers will be limited to a maximum duration of *three* hours inclusive of any breaks;
 - 11 the performance of live entertainment will be limited to two sessions per week;
 - 12 entrance doors and the rear door to the outside beer garden must be provided with automatic door-closers and shall be maintained in good working order;
 - 13 the Premises Licence Holder shall nominate a senior member of staff as the person responsible for the management, supervision, compliance with licensing conditions and general control of regulated entertainment. This person will also be responsible for instructing performers on the restrictions and controls to be applied;

- 14 the Premises Licence Holder, DPS or nominated person shall carry out observations in the residential streets surrounding the public house at the commencement of and at periodic times during any live music, karaoke or DJ's playing recorded music to establish whether there is a noise breakout from the premises
- (i) If the observation reveals noise breakout at a level likely to cause disturbance to the occupants of properties in the vicinity then the volume of music shall be reduced to a level that does not cause disturbance;
 - (ii) A record of such observations shall be kept in a log for that purpose, such a log shall be completed immediately after the observation detailing the time, location and duration of the observation, the level of noise break out and any action taken to reduce noise breakout;
 - (iii) Such records must to be made available at all times upon request to a police officer or an officer of the local authority;
- 15 the Premises Licence Holder, DPS or nominated person shall ensure that suitable signage is positioned at exits to request the co-operation of patrons, in particular to make as little noise as possible when leaving the premises. Patrons will be asked not to stand around talking in the street outside the premises or any car park; and asked to leave the vicinity quickly and quietly;
- 16 the Premises Licence Holder, DPS or nominated person shall ensure a telephone number is made available and displayed in prominent locations as agreed with Environmental Health for local residents to contact in the case of noise-nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Records will be made available for inspection either by any relevant responsible authority throughout the trading hours of the premises;
- 17 the Designated Premises Supervisor or nominated person shall be available at all times during regulated entertainment and who is responsible for cooperating and liaising with any relevant responsible authority;

Use of the outside seating area

- 18 after 21:30 hours no drinks are to be taken outside to the outside area and no consumption of drinks to occur after 22:00 hours;

- 19 a sign is to be placed in the outside rear area specifying that no drinks are to be taken into this area after 21:30 hours;
- 20 after 22:00 hours noise levels in outside areas are to be monitored and controlled to minimise any potential impact on local residents;
- 21 the Premises Licence Holder, DPS or nominated person shall control levels of noise in the outside area and advise customers of the need to respect local residents where appropriate. Any patrons continuing to cause any disturbance or disorder will be asked to leave the premises;

(c) written and oral submissions from the Police as follows –

- (i) there had been three instances where disorder had broken out at the premises since May 2014. Two of these had been large scale disorder involving between 8 and 20 people. These incidents had resulted in injuries to those involved including a glassing injury and a person being left unconscious on the floor of the premises. One incident had involved the DPS herself, assaulting a person although that person did not want to take the matter further. The DPS was not helpful with police enquiries in relation to these matters and no CCTV was provided;
- (ii) there have been reports of underage drinking at the premises and this was supported as a witness to a criminal damage incident was a 17 year old person who had been drinking;
- (iii) the police provided information of reports of noise that had been supplied to them;
- (iv) on one occasion the police had been called to the premises and found the DPS had been drinking and was screaming and shouting at the customers in the beer garden of the Seven Stars. She was escorted back to the premises and told not to go near the premises. Officers were of the opinion that the DPS's behaviour was appalling. The DPS denied she had been drinking;
- (v) the police provided evidence of their attempts to work with and assist the DPS however despite this there has been an escalation of drunkenness, crime and disorder. The DPS has also become less willing to cooperate with Police enquiries. The police do not consider that the DPS has demonstrated she can abide by the licensing objectives and this is demonstrated by the levels of crime and disorder and public nuisance that has emanated from the Queens Arms and believe she had no intention of addressing he issued or engaging with the police;
- (vi) in order to promote the licensing objectives of prevention of crime and disorder, prevention of public nuisance and protection of children from

harm the police requested the removal of the DPS from the licence, consideration be given to review of the licensable hours and also the imposition of the following conditions:

Prevention of Crime and Disorder

- 22 all staff shall be fully trained to perform their role.
The Designated Premises Supervisor shall ensure that all staff are trained in the legality and procedure of alcohol sales, using the SWERCOTS on-line training pack or equivalent, and the contents of the premises licence including times of operation, licensable activities and all conditions prior to undertaking the sale of alcohol and then at least every six months thereafter;
- 23 training shall be recorded in documentary form that will be available for inspection at the request at all reasonable times by an authorised officer from a relevant responsible authority. The records will be retained for at least 3 years;
- 24 a refusal register will be kept for any person refused service. the record will contain the time and date, the reason, the person (if known), the action taken and details of the person responsible for the management of the premises at the time of the incident;
- 25 an incident book shall be maintained to record any activity of any violence, criminality or anti-social behaviour. 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;
- 26 a list of banned individuals is to be recorded in the Incident book with name, description of individual, length of ban and reason;
- 27 the refusals register and incident 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;
- 28 there will be a drug prevention policy in place which staff will be trained in the contents of the policy;
- 29 there will be no aggressive drinks promotions (i.e 2 for 1, heavy discounting of alcohol and any happy hours);

Public Safety

- 30 the Designated Premises Supervisor and/or Responsible Person shall not allow any open drinking vessel, glass or bottle to be taken from the premises;

- 31 the collection of glasses and bottles shall be undertaken at regular intervals to ensure there is no build-up of empties inside and outside within the premises boundary;
- 32 illumination is provided in the exterior areas of the premises that are accessible to the public;

The Prevention of Public Nuisance

- 33 the Designated Premises Supervisor and/or responsible person shall ensure that outside areas of the premises 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 areas have on the surrounding community;
- 34 clear Signage is to be on display by the exits requesting that patrons leave the premises quietly and respect the local residents;

Protection of Children from Harm

- 35 all staff shall be trained in the requirements of the Challenge 21 policies. The types of acceptable identification and refusing service to any person who appears to be under-age;
- 36 challenge Under 21 signage is to be clearly displayed behind the bar;
- 37 unaccompanied children will not be allowed on the premises;
- 38 children are not permitted to be on the licensed premises after 19:00hrs;
- 39 soft drinks are to be available;

CCTV

- 40 the Premises Licence Holder will ensure that a CCTV system 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;
- 41 the CCTV system shall be capable of downloading images to a recognizable viewable format.
- 42 designated Premises Supervisor shall be competent in operating the CCTV system and able to view and download footage onto a recognised format when requested by an authorised officer of relevant responsible authority;

- 43 the CCTV equipment shall be maintained in good working order and continually record;
- 44 the CCTV system shall cover all areas of the premises to which the public have access including the frontage and Car park of the premises and any outside areas;
- 45 images shall be retained for a minimum of 30 days;
- 46 the Police Licensing Department will be informed if the CCTV system is not fully working during licensed hours;

(d) written and oral submissions from other parties -

- (i) one local resident provided a witness statement and diary entries of the problems which she had been experiencing since the DPS took over the premises in February last year. Initially her complaints about the noise were dealt with and action taken but gradually the incidences increased and her complaint calls went unanswered. Of particular problem is the Karaoke on a Tuesday night which is very loud and disturbing and means she cannot sit in her garden as she can hear the music. If she wants to watch the television she has to turn up it up to drown out the music. She is unable to open her windows if she wants to, due to the level of noise. The karaoke goes on until between 11.30 and 11.45pm. On weekends the problem is noise from live music particularly if the doors are left open. She reported that with the back double doors closed the music level is more reasonable. The live music is louder and more disruptive than the Karaoke. The music is so loud that she has been able to hear the music above her television and to make a list of what has been played. Whilst the live music finishes between 11.30 and 11.45pm once it has ended the patrons the juke box is turned on, the doors open and patrons go into the beer garden until 12.30am. The noise from this can be heard in the complainant's house. The noise has made her life a misery, disrupted her son's GCSEs, prevented the use of their garden as well as disrupting sleep and making her anxious. In addition to the problems from noise they have witnessed fights outside the premises which have resulted in the police being called and have also been shouted at by a drunken patron;
- (ii) another local resident stated that they have experienced problems from the premises in recent years and found that the car park has become an extension of the pub. There have been problems with smokers not using the rear garden for smoking but instead spilling out into the car park and road for hours at a time drinking, talking, shouting and searing loudly to each other well into the early hours. Often they will lean against his wall or sit in his driveway. At weekends there are usually about 50 patrons being more boisterous after midnight. There appears to be no supervision in the car park. The resident had also witnessed several events of disorder with fighting and glass throwing in

the car park one example was provided of the 31 August 2014 which resulted in the Police and ambulance being called. They stated that whilst they don't wish the premises to be closed they do want it to be more orderly;

- (iii) further representations were made that noise, violence and anti-social behaviour had increased in the last year coming from the Queens Arms. The resident stated that he was suffering constant noise from amplified music and resulting drunkenness and disorderly behaviour lasting into the early hours of the morning;
 - (iv) a further local resident reported witnessing drunkenness in day time as well as at night and customers shouting and stumbling in and out of the pub. He stated he found the patrons that congregate outside the pub frightening and intimidating and he has had to run the gauntlet of drunks to get to his car. Patrons also seem to congregate outside his house. He reported that there had been increasing levels of violence at the premises and that the road has been blocked on more than one occasion with police vans attending the pub which resulted in him having to do a detour to get home. The resident considered the pub to be poorly managed which has given rise to unacceptable levels of noise, drunkenness and violence. No specific details were provided as the resident stated he had failed to keep detailed records;
 - (v) an assistant with the local carnival stated that the local carnival has caused problems in the past and that as a result local premises use security on carnival day and close on time. This he said, was explained to the DPS at the premises who then kept the premises open and saw many drunks and people who looked underage at the premises. Having spoken to the DPS the next day he reported that the DPS had claimed that the Police had over reacted. This person had also witnessed noise coming from the premises when at a friend's property and found it frightening to see pictures of the violence which is alleged to have occurred there;
- (e) a summary of the response from the PLH -
- (i) the premises licence holder expressed to Committee their sincere apology that nuisance has occurred at the premises for the past six or so months and are embarrassed and sorry to be the subject of this review;
 - (ii) there is no suggestion of a challenge to the evidence of excessive noise nuisance from entertainment for the customers in and around the premises and in the beer garden.
 - (iii) the representatives here today were acting on behalf of the premises licence holder and were not representing the DPS in any way;
 - (iv) the DPS is not an employee of Punch Taverns but is a lessee of the

- premise. She pays rent and is entitled to call the property her own;
- (v) the premises are operated by licensees who take on the business under an agreement with the PLH. The day to day operation of the premises is the responsibility of that licensee rather than the PLH;
 - (vi) this works well in other parts of the Country; since 2005 in excess of 5,000 premises have been run on the same principle by Punch Taverns;
 - (vii) this premises is the exception to the rule and it is rightful for Punch Taverns to be engaged in any due diligence questions for the promotion of the licensing objectives. To deal with this they have a Risk and Compliance Team and work in local partnership with the local management [DPS];
 - (viii) the PLH Risk Compliance Team and Development Officers have tried to resolve these issues with dialogue and discussion with the DPS to no avail.
 - (ix) the premises have not been the subject of a review for the previous nine years and the issues seem to have escalated in May of this year which could be as a result of the fine weather.
 - (x) it was believed when this DPS was taken on in February that, as a former Police Officer, she would be fit for the job;
 - (xi) although evidence has been presented regarding problems it should be noted that these have ceased since this review procedure has commenced with the last reported incident being the end of August;
 - (xii) it is considered to be appropriate, proportionate and fair to promote the licensing objectives by the imposition of some 30 or so conditions proposed by the Environmental Health Officer and the Police, although it is submitted that with regard to the two Police conditions concerning the prevention of public nuisance these are dealt with by the proposed condition numbers 21 and 15 in the Environmental Health Officer's conditions;
 - (xiii) it is also submitted that the police condition dealing with no aggressive drinks promotions is superseded by mandatory conditions now imposed or in any event that the reference to two for one drinking, discounted alcohol and happy hours should be considered to be removed from this condition;
 - (xiv) it was suggested by the PLH that to combat the nuisance that had arisen as a result of customers entering after the closing hours of the other two pubs in the area could be dealt with by way of a condition restricting late entry to the premises.
 - (xv) The PLH also suggested that in the event of responsible authorities and

residents experiencing difficulty in resolving issues locally they could be provided with a telephone number for PLH's Risk and Compliance Team.

In response to questions by Members, the following information was put before Committee -

- (f) heard from the Police that there were five incidents of arrest and prosecution have been linked with the premises, the dates being 31 August 2014, 30 August 2014, 30 August 2014, 25 June 2014 and 4 May 2014 and these were for four for ABH and one for wounding GBH with intent;
- (g) heard from another party that the premises have largely been reasonably managed over the past but the nuisance has been exceptional since the current DPS has taken over;
- (h) the PLH advised that the officers they had in place who would now be dealing with the people appointed to manage these premises had worked for the PLH for the past seven years managing a number of other premises and this is the first premises within their area that has been the subject of a review.

Having considered the representations made at Committee and also considered the written representations received, Members have been concerned about the breakdown in management of these premises and the effects upon the licensing objectives of prevention of public nuisance, prevention of crime and disorder, public safety and protection of children from harm. As a result, the Committee agree that it is appropriate in order to promote the licensing objectives to remove the DPS from the licence and also to apply the conditions put forward by Environmental Health and the Police and, as set out below, and as a result of this review the conditions relating to live music are applied in accordance with section 177A(4) of the Licensing Act 2003 –

- 47 no entry or re-entry to the premises after midnight Sunday to Wednesday and after 0030 hours Thursday to Saturday;
- 48 condition number 18 of Environmental Health conditions will remain as the hours stated and therefore the PLH submission with regard to change of those hours is rejected;
- 49 to add the following to condition 16 of the Environmental Health suggested conditions the inclusion of a telephone number for the PLH Risk and Compliance Team or function.

27. **EXEMPT BUSINESS**

There were no items of exempt business.