

Licensing Sub Committee

Tuesday 17 March 2015

PRESENT:

Councillor Rennie, in the Chair.

Councillor Mrs Bowyer, Vice Chair.

Councillors Mrs Nicholson (Fourth Member) and John Smith (substitute for Councillor Hendy).

Apologies for absence: Councillor Hendy.

Also in attendance: Sharon Day (Legal Officer) (pm only), Catherine Fox (Legal Officer) (am only), Fred Prout (Senior Licensing Officer) and Lynn Young (Democratic Support Officer).

The meeting started at 10.00 am and finished at 4.50 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.

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

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

34. **DECLARATIONS OF INTEREST**

Prior to the commencement of the meeting Councillor Hendy declared a personal interest in respect of agenda item number 36 and withdrew from the meeting.

35. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

36. **BARISTA BROTHERS, 3 GIBBON LANE, PLYMOUTH - GRANT OF PREMISES LICENCE**

The Committee having –

- (1) considered the report from the Director of Public Health;
- (2) heard from the Applicant that it seeks to carry on the following licensable activities and timings
 - i. a Late Night Refreshment Licence in respect of the above premises from 11 pm to 5 am;
 - ii. the Supply of Alcohol for consumption ON the premises Monday – Sunday 10 am to 2 am;
 - iii. Hours Premises are Open to the Public – Monday to Sunday - 24 hours;

That the Applicant had attended a meeting at Winifred Baker Court with some of its residents at which he had agreed to install 3 CCTV cameras at the rear of the property; that there would be no access for customers/members of the public to the rear of the premises; that the store for bins would be internal to prevent the noise from bottles etc; 2 upstairs windows at the rear would be boarded up to limit noise nuisance;

The Applicant stated that any alcohol sales will be incidental to the main focus of the business as a coffee shop with refreshments (such as paninis). Alcohol will not be on display, spirits will only be sold as part of liqueur coffees. That the alcohol licence sought is a reduction from 6 hours a day of the licence attached to the premises when an off licence;

The Applicant wishes the premises to be a positive addition to the area and not a negative one. He understands the ongoing problems being experienced by the Interested Parties. He feels it will offer a viable alternative to the vertical drinking market to those wishing to sit down with a coffee and socialise, along the lines of a continental coffee shop;

The Applicant stated that he was happy to take on constructive conditions;

(3) representations from Responsible Authorities:

no written representations were received from any of the Responsible Authorities – but Devon and Cornwall Constabulary have had consultation with the Applicant who has agreed to accept conditions proposed by the police becoming conditions on the licence;

(4) considered written representations and heard oral representations from other interested parties under the licensing objectives as detailed below:

Prevention of crime and disorder

- Will add to the existing problem of students congregating/large crowds, swearing and shouting, all night partying causing intimidation to residents/business holders of nearby properties;

This was considered to be relevant under this licensing objective. It was felt a possibility but that no evidence had been produced that linked these problems to this premises and there had been no representations from the Responsible Authorities. The Committee felt that the nature of the premises based on a coffee and food model could help to alleviate the problems and pressure on the area. In addition the installation of CCTV, positioning of signage and assurances given with regard to monitoring of outside space supported by appropriate conditions would also mitigate against any increase in the problem;

- Will add to existing problem of fights by burger van;

This was considered to be relevant under this licensing objective. Again

the Committee felt there was no evidence of a link to this premises nor any representations from the Responsible Authorities that this premises has contributed to this problem;

- Will add to problem of urinating in street, public sexual activity and other antisocial behaviours;

This was considered to be relevant under this licensing objective. Again the Committee felt there was no evidence of a link to this premises nor any representations from the Responsible Authorities that this premises has contributed to this problem;

Public Safety

- Size and layout of property including capacity will cause fire risks to users of premises;

This was not considered to be relevant under this licensing objective. This is an issue that is dealt with by the Planning Authority. The Committee noted that there had been no representations received from Devon and Somerset Fire & Rescue;

- Layout of streets and existing congestion will limit appropriate access for emergency services;

This was considered to be relevant under this licensing objective;

- Safety of customers leaving venue and adding to congestion/crowds;

This was considered to be relevant under this licensing objective. The Committee felt there was neither any evidence of a link to this premises nor any representations from the Responsible Authorities that this premises has contributed to this problem. The Applicant has given assurances he and his staff will actively discourage his customers from loitering outside and within the neighbouring car park (currently used by Relate). The installation of CCTV cameras will mitigate against this risk. These factors will be supported by relevant conditions;

- Risk of harm from discarded glass and bottles;

This was considered to be relevant under this licensing objective. The Committee felt there was neither any evidence of a link to this premises nor any representations from the Responsible Authorities that this premises has contributed to this problem. The Applicant has given assurances he and his staff will actively seek to prevent his customers from taking any glass or bottles outside. The installation of CCTV cameras will mitigate against this risk. These factors will be supported by relevant conditions;

Prevention of Public Nuisance:

- Increase in litter and overturned bins and mess all up and down street;

This was considered to be relevant under this licensing objective. The Committee felt there was neither any evidence of a link to this premises nor any representations from the Responsible Authorities that this premises has contributed to this problem. The conditions agreed that CCTV will be installed at the front and rear of the property and should help reduce the current problem and prevent any exacerbation of the same;

- Increase in noise levels late at night impacting on local residents sleep – noise from drunk people screaming, crowds, music, smokers outside premises, dispersal;

This was considered to be relevant under this licensing objective. The Committee felt there was neither any evidence of a link to this premises nor any representations from the Responsible Authorities that this premises has contributed to this problem. The conditions agreed with regard to monitoring of customers leaving, smoking outside, the boarding up of 2 upstairs windows at the rear, the bin area being enclosed to become internal will alleviate the risk of any increase in these levels;

Protection of Children from Harm

- Concerns that children on way to and from local primary school have to walk by the premises and will be exposed to drunkenness, antisocial behaviour, swearing etc;

This was considered relevant under this licensing objective. There has been no representation from the Responsible Authorities or the school. Due to the business practice proposed of primarily a coffee shop with food and the installation of CCTV the Committee did not consider any risks were posed to the children;

- Concerns that children will be exposed to drinking culture and able to make underage purchases;

This was considered to be relevant under this licensing objective. This was considered relevant under this licensing objective. There has been no representation from the Responsible Authorities or the school. Due to the business practice proposed of primarily a coffee shop with food and the installation of CCTV the Committee did not consider any risks were posed to the children. The conditions relating to staff training and Challenge 21 will also address these concerns;

Members have considered the application and the fact that there are no

representations from any Responsible Authorities, and have taken into account all relevant representations from the Other Parties.

Members have also considered the Home Office guidance and Plymouth City Council's Licensing Policy.

Members consider the action taken below to be appropriate and proportionate to promote the licensing objectives in light of the relevant representations and all that was said by the Applicant.

Members agree that the following decision is appropriate, given the fact that there are no representations from any Responsible Authority and the lack of specific detail relating to this application in representations by the other Interested Parties. The application is **GRANTED** subject to the mandatory conditions within the Licensing Act 2003 and the conditions put forward by the Applicant in their application as well as those agreed with the Police (as amended at Committee) and the additional conditions all of which are set out below.

APPLICANT'S OFFERED CONDITIONS

- 1 there will be no irresponsible drinks promotions. The premises will be run predominantly as a restaurant/café and coffee shop with alcohol ancillary to the other products on offer;
- 2 there will be an adequate number of seats to allow all customers (as referred to in the stated capacity) to sit down if the premises is at full occupancy;
- 3 there will be a zero tolerance to offensive conduct;
- 4 there will be supervision of customers and areas will be checked regularly, including toilets;
- 5 management will control levels of noise from customers 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;
- 6 the Premises License Holder will ensure that sufficient measures are in place to remove litter or waste arising from their customers and to prevent such litter accumulating in the immediate vicinity of the premises – to include where necessary the provision to customers of sufficient receptacles for the depositing of waste materials such as food wrappings, drinks containers, smoking related litter;
- 7 from 11 pm onwards, a table service will be put in place so that the customers are seated and food and drinks are brought to them unless being bought as a takeaway;
- 8 customers will not be allowed to congregate around the coffee bar pick up area as this is purely for collection of drinks and not for customers to stand

at and socialise;

- 9 the Premises License Holder or nominated person shall erect and maintain in a prominent position at every exit and on the rear wall facing Winifred Baker Court, a clear, legible and conspicuous notice requesting patrons avoid causing a noise, nuisance or disturbance to local residents;
- 10 customers will be asked not to stand around talking in the street outside the premises or the neighbouring car park and asked to leave the vicinity quickly and quietly;
- 11 a specific taxi operator is to be nominated for staff and customers use. The company's telephone number is to be advertised to customers. The operator and all drivers are to be made aware that they should arrive and depart as quietly as possible, should not sound vehicle horns as a signal of their arrival or leave engines idling unnecessarily;
- 12 staff are to leave as quietly as possible;

CONDITIONS AGREED WITH POLICE

Prevention of Crime and Disorder

- 13 all staff shall be fully trained to perform their role. The Premises Licence Holder and/or 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, 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 twelve months;
- 14 training of staff shall be recorded in documentary form that will be available for inspection at the request at all reasonable times by any authorised officer from a relevant Responsible Authority. The records will be retained for at least 3 years;
- 15 a Refusals Register will be kept for any underage person refused service. The record will contain the time and date, the reason, the person (if known), the action taken and details of the staff member;
- 16 an Incident Book shall be maintained to record any activity of violent, criminal 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;
- 17 a Refusals Register and Incident Book shall be available for inspection at all reasonable times by an authorised officer of a relevant Responsible Authority. The records will be retained for a minimum of 3 years;
- 18 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;

- 19 the CCTV equipment shall be maintained in good working order and shall cover all areas of the premises to which the public have access including outside frontage and the rear of the premises and should be capable of obtaining a clear head and shoulders image of every person entering or leaving the premises;
- 20 images shall be retained for a minimum of 28 days and the CCTV system shall be capable of downloading images to a recognisable viewable format;

Public Safety

- 21 the Designated Premises Supervisors and/or Responsible Person shall ensure that no open drinking vessel (other than takeaway drinks) glass or bottles are taken outside the premises;

Public Nuisance

- 22 the smoking area at the frontage of the premises and the neighbouring car park (currently used by Relate), is to be monitored and managed to the same standard inside the premises to prevent any public nuisance and loitering within the area;

Protection of Children from Harm

- 23 all staff shall be trained in the requirements of Challenge 21 policies;
- 24 all staff shall be suitably trained in the operating procedures for refusing service to any person who appears to be under age;

ADDITIONAL CONDITIONS IMPOSED/AGREED AT COMMITTEE

- 25 the bin area at the rear of the premises to be enclosed and the bins to be kept in an internal area to prevent any nuisance from noise;
- 26 the 2 upstairs rear windows to be appropriately blocked up to provide total sound proofing to prevent any nuisance from noise;
- 27 suitable receptacles for discarded cigarettes to be affixed securely on the external walls of the premises in such a way to be accessible to anyone passing the neighbouring car park (Relate).

(Councillor Mrs Nicholson (Fourth Member) left the meeting after this agenda item)

THE CLIPPER INN, 65 UNION STREET, PLYMOUTH - REVIEW OF PREMISES LICENCE

- (1) The Committee heard from the Premises Licence Holder (PLH) that he would like an adjournment of today's hearing as he had been unable to obtain legal representation. He advised the Committee that initially he had not been able to find a lawyer who could deal with licensing issues and that once he had the solicitors had said that the time frame was too short. The Police objected to an adjournment stating that the review papers had been served on the 23 January 2015, that meetings with the PLH had taken place in February and that there had been further issues with the premises since the review papers were served. The further papers had been served on the PLH three days earlier than the regulations required.

The Committee considered what was said by both parties and carefully considered the nature of the alleged incidents and their impact on the public against the right of the PLH to legal representation. The Committee agreed that the hearing would go ahead as they did not consider that it was in the public interest to grant an adjournment. They felt that the PLH had had ample time to seek legal advice and that the review application had been detailed enough to allow the PLH to do this as early as the 23 January 2015. The fact that there had been further alleged incidents in the time since the review papers were served was a decisive factor in reaching this decision;

Following the consideration for the adjournment the Committee then –

- (2) considered the report from the Director of Public Health;
- (3) received written and verbal representations from the Police as follows:
- a. the premises is within a Cumulative Impact Area;
 - b. evidence shows that the majority of crime, disorder, incidents of anti-social behaviour and drunkenness in the vicinity of these premises occurs between 4 am and 8 am and is attributable to the Clipper;

Officers had reported attending incidents of drunken customers, anti-social behaviour, public order incidents and assaults occurring in the vicinity and outside the premises between 4 am and 8.30 am especially at weekends. CCTV indicated the extent of the problems and showed that customers gathered in the front of the premises to smoke and socialise, many appearing to be drunk and some engaged in verbal and physical altercations and anti-social behaviour.

- c. that customers using the premises between the hours of 4 am and 8 am are likely to have already been drinking and then frequently congregate outside to smoke and socialise, cause congestion and occupy a substantial part of the pavement, interfere with the free flow of traffic, engage in incidents of public disorder, drunkenness,

fights and anti-social behaviour and often leave the premises heavily intoxicated. Patrons are not effectively controlled by door supervisors;

- d. due to its location, the way the premises are being operated is having a negative effect on the local community and causing concern for residents from noise, anti-social behaviour and alcohol related crime;

Local residents voiced concerns in November, following police enquiries, regarding the operation of the premises citing disorder, noise, drunkenness, regular fighting, feeling unsafe in the early mornings, disturbed sleep for families and feeling intimidated on the public highways when these activities are taking place. One family was trying to arrange a house move. Over the Christmas period one family thought there had been an improvement but still lots of disturbance;

- e. the premises did not have a recognised coherent Dispersal Policy however since adopting one there has been no improvement in the situation;
- f. the premises had not had any formal recognised training for staff with regards to its own operating schedule, the licensing act, sale of alcohol, underage policies and drug policies;
- g. meetings had taken place with the Premises Licence Holder (PLH) who, having viewed the CCTV, agreed it was not acceptable but felt that the lack of Police presence was a contributory factor and was satisfied with the operation of the premises and the actions of his Door Supervisors. An action plan was requested from the PLH in December but was not produced until another meeting which took place in February. In that meeting the PLH had said that:
 - He was employing 2 extra door staff when busy and had retrained his door staff;
 - He was prepared to put up signage requesting people to leave quietly and not loiter;
 - He was trying to get people to leave in groups rather than all out at once;
 - He had no formal training regime and trained people verbally;
 - Zero tolerance Drug Policy (not written);
 - Operates a Challenge 25 policy but this is not formal training but he does display posters;
 - He is engaged in the local breathalyser campaign;
 - He had refused entry to six people;
 - He opens between 10 pm and 5.30 am weekdays and 10 pm and 8.30 am at weekends.
 - He keeps door supervisors on the door all the time;
 - He has introduced a door charge of £2 or £3;

- h. CCTV was viewed which showed various incidents of drunkenness and disorder, fights, patrons wandering in the road narrowly missing traffic, urinating in the street, falling asleep/unconscious outside the premises, premises doors being closed whilst a group of patrons remained outside. The CCTV also showed that the PLH had helped a vulnerable female from a potentially dangerous situation;
- i. evidence was presented of incidents which were tied and linked to the premises which showed that:

In October 2014 there were six crime reports said to be tied and linked to the premises all of which occurred between 2.30 am and 8.30 am.

Out of these three involved violence and three indicated the influence of alcohol. Three offences occurred inside the premises and three occurred outside the premises.

There was also one other incident of violence at the premises around midnight and then four instances of drunkenness (two of which seemed to be the same person) between 5.45 am and 8.10 am.

The majority of incidents appeared to be taking place outside the premises.

In November 2014, there were five crimes tied and linked to the premises between 1.30 am and 8 am.

Three out of five indicated the influence of alcohol, three out of five involved violence and three out of five occurred between 4.30 am and 8 am.

Six further instances occurred between 5.20 am and 8.50 am involving anti-social behaviour. One incident involved an assault on the landlord by a drunken customer.

The majority of instances appeared to be taking place outside the premises.

In December 2014, there were five crimes tied and linked to the premises between 2 am and 8 am. (Two of those crimes arose out of the same incident).

Four out of five indicate the influence of alcohol, two out of five involve violence.

In addition to the crimes reported there were four other instances which required police attendance at the premises between midnight and 7 am. There were two other reports involving nuisance and anti-social behaviour in that time scale.

In January 2015 there were six offences tied and linked to the premises between 3 am and 6.45 am. Four out of these six instances occurred between 4.30 am and 6.45 am. Two involved violence (but arose out of the same incident) and four involved the influence of alcohol.

There were a further eight instances recorded involving anti-social behaviour and drunkenness. Seven out of which occurred between the hours of 6 am and 8.05 am.

The majority of these instances occurred outside the premises. One of the incidents involved customers leaving and then fighting in Western Approach.

In February 2015 three offences were tied and linked to the premises (but two arose out of the same circumstances) and occurred between 5.50 am and 7 am. All involved violence and two out of three involved the influence of alcohol.

Nine further instances involving anti-social behaviour and drunkenness occurred between 5.20 am and 8 am.

The majority of instances occurred outside the premises.

- j. the PLH does cooperate and try to resolve problems; however it is the premises themselves which are the issue as it is effectively where people go when all the clubs have closed. As a result the premises have developed a culture of drinking to excess. It is effectively a vertical drinking establishment as it has no dance floor;
- k. whilst the door staff are adequate the Police felt it was not possible to control the patrons;
- l. an example of the issue of drunkenness at the premises was where two people had been arrested at the premises and had later been breathalysed and found to be four times over the legal drink drive limit;
- m. there had been two more recent incidents at the premises on the 8 March 2015 and 15 March 2015;
- n. staff did appear to be becoming reluctant to work with the Police and seemed to need to speak with the PLH before cooperating with them;
- o. the figures indicated that there were two incidents a week at the premises and that this was above average when compared with other venues in the City;
- p. the Police cannot provide a permanent presence outside the premises specifically for the Clipper;
- q. due to the above, the premises are having a negative impact on the licensing objectives of prevention of crime and disorder, prevention of public nuisance and public safety;
- r. other interventions against these premises have not worked and previous conditions had not been effective at addressing the

problems regardless of who the Designated Premises Supervisor (DPS) or PLH was. The Police did not consider that a change in licensable activities or licensing hours would address the problems due to the culture that had developed at the premises of drinking to excess. Therefore the Police requested that the licence was revoked;

(4) Heard from the Premises Licence Holder as follows -

- a. people will get drunk and it is hard to tell how drunk they are if they stay sitting down. Often it is only when they stand up that you can tell how drunk they are;
- b. since February they have set up barriers around the smoking area. This was working better as it keeps the pathway clearer;
- c. an entry fee of £2/3 is now charged and this allows the door staff to interact with customers and assess each person's level of drunkenness;
- d. the capacity of the premises has been reduced by 40% - meaning that 60 people is now the maximum allowed in;
- e. in respect of the CCTV shown by the Police – regarding the 19/10/14 incident the lady in question did not enter the premises and in respect of the 15/11/14 incident the grey hooded man was not their customer;
- f. the issues at the premises really involved patrons from another club. This club closed at the beginning of January 2015;
- g. other premises in the area do not always communicate the problems they have had;
- h. the CCTV cameras are always on them;
- i. they feel victimised;
- j. they have a no glass policy and only plastic drinking vessels are allowed;
- k. door staff were retrained in December 2014. The PLH accepted that door staff were still not working to the required standard and that he needed to look at this issue again;
- l. he always has two door staff on the front of the premises and now has internal radios so that they can keep in touch;
- m. local people who live nearby say they have not got any problems with the premises;

- n. he had helped a vulnerable patron get home and had also assisted another trader who was having problems;
- o. the Police do not always have units available and so they do not attend but also they do not always need to attend;
- p. all bar staff will be Personal Licence Holders;
- q. there is no written record of training provided to staff save for a disclaimer which they sign to say they have been trained;
- r. in relation to the Dispersal Policy, patrons are asked to leave in small groups and taxis are called;
- s. the premises has a written Drugs Policy and written Challenge 25 Policy;
- t. they do not have cheap drink promotions;
- u. they always assist Police;
- v. they have regular clientele who are shift workers or people who have just finished work. These people do not cause problems;
- w. they consider that the premises is one of the safest pubs in Plymouth. They have not had any serious incidents (stabblings or glassings). If the premises were not safe then staff would not want to work there;
- x. they have put policies in place to address issues however these policies will take time to work;

(5) the Committee considered that the representations made by the Police were relevant under the licensing objectives of the prevention of public nuisance, prevention of crime and disorder and public safety.

In reaching their decision the committee disregarded the following matters:

- Cumulative Impact Policy as this was not relevant to the considerations for a review;
- the following incidents put forward by the police. One of which was a lawful ejection from the premises, the other in relation to an unsubstantiated allegation and the incident on the 19/10/14 in relation to the female who did not enter the premises. However the Committee have taken into account the incident on the 15/11/14 involving the grey hooded gentleman as although this person was not a patron of the premises the customers were congregating outside the Clipper and this had been a contributing factor to the incident;

Having considered the representations from the Police and those from the Premises Licence Holder, the Committee did not consider that the premises were being managed adequately and that there did appear to be a culture of excessive drinking at the premises. The change in the PLH and DPS had not altered this as the same sorts of incidents were occurring. These problems had been going on for several years and were a long term problem. There had been no marked improvement. The Committee were concerned that on occasion the PLH did not appear to be cooperating with the Police although it was accepted by the Committee that the PLH is generally cooperative with them. The evidence showed that there were a lot of drink related incidents at the premises together with a lack of control inside and outside the premises. Customers caused problems outside and in the immediate vicinity of the premises and the CCTV footage showed a lot of violence by Patrons. The public were being affected by the activities of the premises which had a culture of excessive drunkenness which was clearly demonstrated on the CCTV footage.

The Committee were satisfied on what they had heard that action should be taken against the premises in order to promote the licensing objectives of prevention of crime and disorder, prevention of public nuisance and public safety.

In reaching their decision the Committee took account of the fact that in relation to previous incidents involving the premises, conditions had been imposed on the licence. It was also noted that the PLH had not been complying with an existing condition in relation to the display of notices at the premises. Having considered this the Committee had no confidence that further conditions would address the issues occurring at the premises.

The Committee considered that the Police evidence demonstrated that there were peaks in problems at the premises at 2 am, 4 am and 6 am and that further problems occurred in the early hours of the morning. They considered that the contributing factor to this was the culture of excessive drinking at the premises into the early hours of the morning and the migration of customers to the premises when other clubs closed. With this in mind the Committee agreed, having taken account of statutory guidance and its own licencing policy, that it was appropriate to reduce the hours of operation of the premises to promote the licensing objectives listed above as follows:

Hours the premises are open to the public – 9 am to 2 am
Alcohol Sales – 9 am to 1.30 am
Music – 9 am to 2 am
Late Night Refreshment – 11pm to 2 am.

38. **EXEMPT BUSINESS**

There were no items of exempt business.