

PLYMOUTH CITY COUNCIL

Subject: Review of Premises Licence – Will's at One, Residence No.1, Royal William Yard, Plymouth

Committee: Licensing Sub Committee

Date: 19 January 2016

Cabinet Member: Councillor Brian Vincent

CMT Member: Kelechi Nnoaham (Office of the Director of Public Health)

Author: Frederick Prout (Senior Licensing Officer)

Contact details: Tel: 01752 304792
email: licensing@plymouth.gov.uk

Ref: ERS/LIC/PREM

Key Decision: None

Part: I

Purpose of the report:

An application has been received from Rachael Hind on behalf of Plymouth City Council, Environmental Health under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of Will's at One situated at Residence No.1, Royal William Yard, Plymouth.

The Brilliant Co-operative Corporate Plan 2013/14 – 2016/17:

This report links to the delivery of the City and Council objectives and outcomes within the plan.

Growing: The Licensing Policy provides a balance between the need to protect residents against enabling legitimate businesses to operate within a necessary and proportionate regulatory framework.

Caring: Reduce Inequalities as the Licensing Policy has put in place an appropriate framework that will allow decision-makers, when considering applications, to reduce the impact on safety, well-being and local amenity on the local community. The licensing system must minimise the burdens on business and to allow communities the opportunity to influence decisions.

See [Our Plan](#)

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land:

Not applicable

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a

statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action:

That Members consider this report.

Alternative options considered and rejected:

None

Published work / information:

For more information please see the below links.

[Statement of Licensing Policy](#)

[Licensing Act 2003](#)

[Revised Guidance issued under Section 182 Licensing Act 2003 - March 2015](#)

Background papers:

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7
Application									

Sign off:

Fin		Leg	SD/2 4648 /21.1 2.15	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? No													

1.0 INTRODUCTION

1.1 On the 20 November 2015 the licensing department received an application from Rachael Hind – Plymouth City Council Environmental health under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of Will's at One situated at Residence No.1, Royal William yard, Plymouth.

1.2 Review application.

Environmental Health have applied for the review of the premises licence for the purpose of promoting the licensing objectives in relation to the prevention of public nuisance A Copy of this application has been served by Environmental Health on each of the responsible authorities and the holder of the premises licence.

Environmental health will allege that the premises and the business has changed from a vintage tea room to a fine dining restaurant with events in the garden including weddings, live music events, theatre productions and garden parties and that there have been complaints by local residents about music noise emanating from the venue.

In accordance with review proceedings at 1205hrs on 20 November 2015 a licensing officer from Plymouth City Council attended the premises and spoke to Mr Trevor Horswell and requested the site notice be displayed at the premises.

At 1240hrs the same day a similar notice was displayed on the public notice board at the Civic Centre, Armada Way, Plymouth.

1.3 Licensable Activities.

These premises have the following licensable activities and timings.

M. The sale by retail of alcohol for consumption ON the premises only

Monday to Wednesday	11.30am to 09.00pm
Thursday to Saturday	11.30am to 11.00pm
Sunday	Noon to 10.00pm

1.4 Conditions currently attached to the licence (Appendix 1).

2.0 RESPONSIBLE AUTHORITIES

2.1 *Planning Office* – no representations.

2.2 *Devon & Cornwall Police* – no representations.

2.3 *Devon & Somerset Fire & Rescue Service* – no representations.

2.4 *Trading Standards* – no representations

2.5 *Child Protection* – no representations

2.6 *Health & Safety Executive* – no representations.

2.7 *Health Authority* – no representations.

2.8 *Licensing Authority* – no representations

3.0 OTHER PARTIES

2 letters/emails of representations have been received (Appendices 2 & 3)

4.0 CONSIDERATIONS

4.1 In making its decision the Committee is also obliged to have regard to the application and any relevant representations, take any such steps if any as it considers appropriate for the promotion of the licensing objectives, which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

In making its decision the Committee is also obliged to have regards to:

- The guidance issued under section 182 of the Licensing Act 2003 with the following paragraph's relevant to this application: Paragraphs 1.2 - 1.51.16, 1.17, 2.14 -2.18, 11.1 – 11.11, 11.16 – 11.23, 15.6 and 15.55 - 15.56.
- The Council's own Licensing Policy with the following headed paragraphs being relevant to this application: Licensing Hours (Page 11), Public Nuisance (Page 17 – 18) and Licensing Conditions (page 20) and Review of premises licence (Page 22-23).
- Representations (including supporting information) presented by all the parties.

4.2 The steps are :

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

As the live and recorded music which has taken place at the premises has fallen outside of the licensing requirements (due to amendments to the Licensing Act 2003), Members are made aware that section 177A(4) of the Licensing Act 2003 would allow them to add a condition to the licence relating to music as if it were

regulated entertainment and as if the premises licence authorised the same. If members were to do this then any condition would need to include a statement that Section 177A of the Act does not apply to that condition.

Where the committee takes a step in 4.2 (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

ANNEX 1 - MANDATORY CONDITIONS

1. The first condition is that no supply of alcohol may be made under the premises licence: -
 - (a) At a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

- 3.(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

4. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

6.(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

7. The responsible person shall ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

Minimum Pricing

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1-

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula-

$$P = D + (D \times V)$$

where-

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence-

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4(1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

4(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

Steps that have been taken to promote the four licensing objectives

The Prevention of Public Nuisance

- No rubbish will be placed into our main refuse area between the hours of 2300hrs and 0700hrs.

The Protection of Children from Harm

- No gambling is allowed on site
- There will be no Adult entertainment at this premise.
- Drug abuse will not be tolerated on site and the police will be notified of any such incident.
- A refusal book will be kept on the premises where staff can record details of everyone who has been refused alcohol.
- During events specifically for people under the age of 18 years, adult staff must be employed to ensure safety.

Conditions that have been agreed with the Police Licensing Authority

Prevention of Crime and Disorder -

- 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, 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 12 months.
- Training of staff 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.
- A refusal register will be kept for any underage or 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.
- 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 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 3 years.
- The collection of glasses and bottles shall be undertaken at regular intervals to ensure there is no build-up of empties in and around the premises.

Prevention of Public Nuisance

- The Premises Licence Holder and/or Designated Premises Supervisor and/or responsible person shall ensure that outside the establishment 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.
- Signage will be in place in all entrances and exits requesting that patrons leave quietly and in an orderly manner.

Protection of Children from Harm

- All staff shall be trained in the requirements of the Challenge 21 policies. The following types of acceptable identification are UK Photo Driving License, PASS Card and Passport.
- All staff shall be suitably trained in the operating procedures for refusing service to any person who is deemed drunk or appears to be under-age.
- All persons under the age of 18 are to be accompanied by an adult after 18.00hrs.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

None

5 December 2015

OFFICE OF PUBLIC HEALTH
HEALTH PROTECTION SERVICE
PO BOX 101 THE CITY COUNCIL
WINDSOR HOUSE
MURRAY PL 606 506

WILES AT 0832 THE RESIDENTS
WAS ONLY FOR 3RP
WINDSOR HOUSE WINDSOR. 11/12/15/16/17/18/19/20/21/22/23

DEAR SIR/MADAM, IN VIEW OF YOUR PUBLIC NOTICE ON ASTORIA WALK
ON APPROXIMATELY 10/11/15 DOWN FROM COLLEGE STREET WALK.

IT IS NOTED THAT NO ONE WISHES TO REOPEN THIS LOCAL
MATTER AND THAT THE WORKING OF STAFF MUST CONTINUE
AS USUAL.

WHILST IT IS FAIR TO SAY THAT SOME
RESIDENTS OBJECTED THROUGH YOU AND THE
TRACK RECEIVED FROM YOU THE LETTERS OF SOUND
HAVE BEEN REPEATABLY BUT THEN THE WATER
HAS BEEN POOL FOR OUTSIDE RESIDENTS AND NOT
THE STAFF FOR OUTSIDE WALKERS.

WHILST I DO NOT WISH TO CURB ENTIREMENT
GAIN THERE IS A LATENT DIBBLE TO BE
FURTHER FLOPPED SO I WOULD DECLINE
THE RENEWAL OF THE OUTSIDE ENTIREMENT
MATTER UNLESS:

SINCE IT BE THAT IT IS RENEWED
THERE SHOULD BE VERY STRICT TIME &
DECIBEL RESTRICTIONS & NO DRAMA/NOISE
IN THE CAMPUS PLEASE! AS OUR COMMON
HEADS BOTH YOUNG & OLD

Yours faithfully
[Signature]

LICENSING REPRESENTATION FORM



If you wish to make a representation against or in support of any licensing application, please read the guidance note '[How to make a licensing representation](#)' prior to completing this form.

Please note that a full copy of your representation will be sent to the applicant at any hearing of this matter.

Section 1: Licence application details

➔ I wish to support the following application

Name of applicant (if known) Environmental Health Department

Premises name and address: Wills at One, Residence 1, Royal William Yard.

Postcode

Which type of application you wish to make your representation about?

➔ Application for a review of a premises licence

Section 2: Your personal details

If you are acting as a representative, please go to Section 3

Mr

Surname Forenames

Address

Postcode

Email: archbuildingsplaces@gmail.com Telephone:

You must provide your full residential address (or business address if you are objecting from a business)

Section 3: Representative details

If you represent residents or businesses please complete the details below

Name of representative/organisation

Address

Postcode

I am

Representative of residents association

Representative of trade/business association

Ward Councillor

Other (please specify)

MP

Section 4: Reason(s) for representation

Under the Licensing Act 2003, for a representation to be relevant it must set out the **likely effect** of granting the application on the promotion of the four licensing objectives. Any representations that are considered to be frivolous or vexatious will not be accepted.

It is important that you set out any personal experiences as these will be considered as relevant.

Please fill in the reason(s) for your representation in the space provided under each Licensing Objective it relates to. You need to give as much detail as possible so that the Licensing Authority can assess the relevance of your representation. Please attach any supporting documents/further pages as necessary, numbering all additional pages. Try to be as specific as possible and give examples such as "I February, I could hear loud music from the premises between 10pm and 1am. I am concerned that if the premises opens until 2am that this will cause a nuisance to me and other residents in the street and will affect my sleep."

The prevention of crime and disorder

For example evidence of anti-social behaviour, police incidents

Public safety

For example alterations to the premises, capacity limits

The prevention of public nuisance

I am [redacted] and I live in Mount Stone Road, which is approximately 6m behind the stone wall surrounding the garden of Residence No. 1 Royal William Yard. I first started being disturbed from music events in the garden of Residence No. 1 in December 2014, not long after the premises had opened. My wife went over and spoke to the Manager on 19 December 2014 when a live band was playing in the garden at Residence One and was affecting our sleep and the enjoyment of our home. The Manager didn't apologise and said it was a one off event.

Another event occurred on 31 July 2015 and the music was extremely loud and our baby could not sleep and we could not enjoy our home. We rang them again and we also left a message with the environmental health department and I received a letter and noise diaries to complete.

On the 5-9 August 2015, The Midsummer Nights Dream was performing in the garden of Residence One. The entire performance could be heard in our flat and we had to keep our windows closed, which meant our home was very warm. The performances finished around 11pm and finished with some pre-recorded amplified music which was very loud.

I saw a blackboard 'Whats on at the Yard' advertising the events at Royal William Yard.

I took a photograph which I exhibit as [redacted]. It listed 'Summer Music Sessions at Residence One every Friday in August to September'.

On 14 August 2015, live music was playing from approximately 8pm to 10.30pm and disturbed us again. We left a message on the Environmental Health Out of Hours phone. I used an app on my iPad called decibel meter and took readings between 65-77dB's with my windows closed. It was very upsetting as it disturbs my baby and my animals and causes us stress and we cannot enjoy our normal activities such as meditation.

On 22 August 2015, live music was disturbing us again and started around 8pm. The music was even louder than the previous week and my app gave readings of between 80-93dB with my windows open. I called the Environmental Health Out of Hours number and two officers visited our property. On the 3rd October 2015 I contacted the out of hours team at approximately 8.30pm as live music was being played and I was advised that the officers were on their way as there was a wedding marquee at Residence One. The officers visited my property and took noise readings with the windows open and closed. When the windows were closed it became very warm in my property so I had to open them for ventilation. The music was very loud and my elder daughter and my baby could not sleep.

Recently this past Friday, 11 December 2015 poor quality music out of a poor quality sound system with a very heavy bass sound began again at around 6 and finished after 11pm.

To be clear, [redacted] Mount Stone Road is a two bed flat in a large complex of residential flats directly adjacent to the garden at Residence 1. It's clear this is not a place for live or amplified music and I'm sure that the lease holders of Wills at One would not appreciate having the same music blared out at them 6 meters from their own homes where they live after coming home from work on a Friday evening. The majority of establishments at Royal William Yard are overflowing with clientele and successful without having amplified music playing outside of their premises. There is no reason why my family should be subject to the stress and harassment that this has caused us and our neighbours. My family have a right to the peaceful and quiet enjoyment of this genuinely beautiful part of Plymouth, and we ask the council to consider the above carefully when considering this application.

The protection of children from harm

For example underage sales, exposure to certain performances

I _____, hereby declare that all information I have submitted is true and correct.

Signed _____ Date _____

Please send the completed form to
Licensing Department
Plymouth City Council
Windsor House
Plymouth PL6 5UF
T: 01752 304141
E: licensing@plymouth.gov.uk

Date**Event**

6th - 9th August - The Barbican Theatre presents
'A Midsummer Night's Dream'
in Residence One Garden

7th August - Pop up Cinema in Factory Cooperage
'Rock Horror Show' 9pm

8th August - Pop up Cinema in Factory Cooperage
'Fight Club' 9pm

Every Friday - 'Summer Music Sessions'
Aug - Sept Residence One

15th + 16th August - Ocean Studio's
'Family Open Day'

Today's weather:**High tide:** 10:59**Low tide:** 17:04

 @RoyalWilliamYdwww.royalwilliamyard.com