

PLYMOUTH CITY COUNCIL

Subject: Food & Wines, 156 Union Street, Plymouth
Variation of Premises Licence

Committee: Licensing Sub Committee (Miscellaneous)

Date: 12 April 2016

Cabinet Member: Councillor Philippa Davey

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 VAR

Key Decision: No

Part: I

Purpose of the report:

An application has been received from Janagan Somalingam in respect of the Food & Wines situated at 156 Union Street, Plymouth for the Variation of a premises licence under Section 34 of the Licensing Act 2003.

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	2530 0.cf. 22.0 3.20 16	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 17 February 2016 the licensing department received an application from Janagan Somalingam for the Variation of a Premises Licence under Section 34 of the Licensing Act 2003 in respect of Food & Wines situated at 156 Union Street, Plymouth.

1.2 Variation application

The nature of the proposed variation is to vary the premises licence and requests to remove the following conditions at:

Annex 2 – Conditions consistent with the Operating Schedule.

Under Conditions agreed with the Police Licensing Authority

7. No single cans or bottles of beer or cider will be sold.

8. No sale of high strength beers or ciders above 6.5 ABV

1.3 The full list of conditions at Annex 2 are shown in Appendix I

1.4 Representations have been received in respect of this application.

1.5 Cumulative Impact Policy

This application does fall within an area to which the Cumulative Impact Policy applies and creates a rebuttable presumption that applications for new licences or variations to existing ones which are likely to add to the existing cumulative impact will normally be refused unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives if the application were granted. However before the Licensing Authority can lawfully consider giving effect to this policy there must be a relevant representation from either a responsible authority or an interested party referring to information which was before the Licensing Authority when this special policy was developed.

2.0 RESPONSIBLE AUTHORITIES

2.1 *Devon & Cornwall Police* – has made representation relating to the prevention of crime and disorder, the prevention of public nuisance, Public safety and the protection of children from harm (Appendix 2).

2.2 *Health Authority (ODPH)* – has made representation relating to the prevention of crime and disorder, prevention of public nuisance and public safety (Appendix 3).

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

2.4 *Trading Standards* – no representations

2.5 *Planning Officer* - no representations.

2.6 *Child Protection* – no representations

2.7 *Health & Safety Executive* – no representations.

2.8 *Environmental Health* – no representations

2.9 *Licensing Authority* – no representations

3.0 OTHER PARTIES

One further representation has been received which is attached to this report, marked appendix 4.

4.0 CONSIDERATIONS

4.1 The Committee is obliged to determine this application with a view to promoting 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 regard to:

- the guidance issued under section 182 of the Licensing Act 2003 with the following paragraphs relevant to this application: 1.2 – 1.5, 1.16 – 1.17, 2.1,2.3, 2.6, 2.14 – 2.15, 2.21, 2.28, 8.42, 9.3,9.12, 9.20 - 9.24, 9.36 – 9.39, 10.10, 13.30 – 13.31, 13.36 – 13.39
- the Council's own Licensing Policy with the following headed paragraphs being relevant to this application: Responsible Retailing for Off-Sales (page 15), Location and Trading restrictions (page 15), Protecting children from harm (page 16), Licensing conditions (page 20), Cumulative Impact Policy (pages 25 – 26)
- the representations (including supporting information) presented by all the parties.

The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

1. Modify the conditions of the licence
2. Reject the whole or part of the application;

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.

The Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

Conditions agreed with The Trading Standards Authority

The Protection of Children from Harm

1. Premises to Implement a 'Challenge 25' policy
2. All customers seeking to be supplied with intoxicating liquor who appear under 25 years of age shall be asked to produce photo ID to ensure that they are of an age to be supplied with such intoxicating liquor. The following are the only forms of identification acceptable:
 - Uk photo driving licence
 - Passport
 - PASS accredited cards
3. Notices should be obtained from the Licensing Police or Safety, Health & Licensing Team, Plymouth City Council publishing the Challenge 25 scheme and shall be clearly displayed at the entrance to the premise.
4. A refusals register shall be kept and shall include details of persons refused and the reason for refusal. The refusals register should be made available to an enforcement officer or Police on request.
5. All staff to be suitably trained on challenging customers and under age sales. Training should be repeated or updated every 3-6 months and records of training should be kept and made available to enforcement staff on request.

Conditions agreed with the Police Licensing Authority

- 1 Spirits and all alcoholic beverages on display will be in such a position so as not to be obscured from the constant view of the cashier / staff. (If this is not reasonably practical the Licensing Authority shall be consulted regarding other suitable locations in the premises.
- 2 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.
- 3 The CCTV system shall cover all areas of the premises to which the public have access including any outside areas.
- 4 Images shall be retained for a minimum of 31 days
- 5 The CCTV system shall be capable of downloading images to a recognizable viewable format.

- 6 At all times the premises are open for business a member of staff shall be present who is capable of operating the CCTV system and downloading images at the request of police or other authorised office
- 7 No single cans or bottles of beer or cider will be sold
- 8 No sale of high strength beers or ciders above 6.5 ABV

Protection of Children:-

1 The Premises Licence Holder or Designated Premises Supervisor shall ensure that all staff, supervisors and managers are trained in the legality and procedure of alcohol sales, using the SWERCOTS on-line training pack or equivalent, prior to undertaking the sale of alcohol and then at least every six months. Training shall be signed and documented and training records will be kept on the premises and be made available to an enforcement officer on request. The documentation relating to training should extend back to a period of three years and should specify the time, date and details of the persons both providing the training and receiving the training.

Prout, Frederick

From: Duane.SEYMOUR@devonandcornwall.pnn.police.uk
Sent: 15 March 2016 11:59
To: Prout, Frederick
Subject: 156 Union Street

Good Morning Mr Prout,

With regard to the application made by the Premises Licence Holder of Off Licence Food and Wine, 156 Union Street, Plymouth, Devon PL1 3HL. To amend conditions attached to their licence the police wish to make representations as we have serious reservations regarding the effect removal would have on the licensing objectives of the Prevention Crime and Disorder, Public Nuisance, Protection of Children from Harm and Public Safety.

The applicant wishes to remove conditions 7 and 8 agreed with the Police prior to the grant of the licence.

These conditions are

- 7. No single cans of bottles of beer or cider will be sold
- 8. No sale of high strength beers or ciders above 6.5% ABV

The licence was granted on 1st of December 2015 following extensive consultation with the applicant. During this consultation it was clearly pointed out to him the area has a history of alcohol and drug abuse.

The two conditions as detailed were suggested and agreed taking into consideration the history of the area and the present problems it currently experiences

The police have also noted and engaged with the Plymouth City Council Licensing Policy with regard to the effect the retail sale of alcohol will have on the local community with particular emphasis on the location of Alcohol Rehabilitation centres, Homeless Hostels Schools and street drinkers.

There are 10 alcohol rehabilitation centres two homeless hostels and three schools in the near vicinity of the premises.

The DPS has already received an official warning for breaching these conditions having been found to have served both single cans and High alcohol beers and ciders to vagrants and street drinkers

The area has a higher than average number of alcohol related crimes recorded. It is a main thoroughfare from the Devonport area and is proving an attraction for Street Drinkers and Vagrants due to restrictions in other areas of the city.

It is also felt relevant that these conditions were deemed necessary and proportionate by all persons engaged in the negotiations. The reason for requesting removal is believed to be purely financial.

Finally it is also felt relevant the premises lie within a cumulative impact area as adopted by the Plymouth City Council due to the amount of alcohol related crime and disorder in the area.

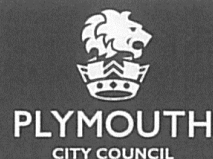
For these reasons we would request that a hearing be arranged in order the Licensing Committee can make a determination.

Yours Sincerely

Duane Seymour
Licensing Officer
Plymouth Licensing Office
Charles Cross Police Station

MEMO

Public Protection Service

**Licensing Act 2003****Environmental Health Representation**

From: Laura Juett, Senior Public Health Manager

To: **Head of Licensing Section**FAO: **Fred Prout**Date: 15th March 2016Schedule Ref: **TC/**

Investigating Officer:

Extension Number:

Application Details**Premises: Food and Wine****Name of Applicant:** Janagan Somalingam**Address:** 156 Union Street, PL1 3HL**Type of Application:** Alcohol Off Licence Variation**Date of Inspection:** N/A**Representation**

This department would like to make the following representation:

I understand that the applicant wishes to remove conditions 7 and 8 agreed with the Police prior to the granting of the licence. These conditions are

- o No single cans of bottles of beer or cider will be sold
- o No sale of high strength beers or ciders above 6.5% ABV

This is likely to have a direct impact on crime and disorder, public safety and public nuisance (further details provided below).

Plymouth's Strategic Alcohol Plan 2013 - 2018 Promote Responsibility, Minimise Harm and the city's 4-4-54 Thrive Plymouth Programme are concerned with reducing alcohol related harm and enabling and encouraging positive choices for better health.

Approaches to alcohol licensing are an important influence on societal attitudes towards alcohol and drinking behaviours. Whilst the licensing regime does not have a specific health objective it provides an important framework for protecting health and wellbeing through addressing issues of overall supply and availability, supporting the management of the Evening and Night Time Economy and directing specific operating conditions of individual on and off licensed premises.

There is a growing body of evidence indicating that the number of licensed premises in an area has

a direct impact on levels of consumption and subsequent harm¹. Studies have shown clear relationships between density of outlets and levels of violence, traffic accidents and injuries. High outlet density has been directly linked to increased risky drinking and levels of violence². Research from Canada clearly indicates that an increased density of licensed premises led to a rise in overall sales and an increase in alcohol related death rates³.

Mapping of on and off licensed premises in Plymouth shows a proliferation of premises in areas of deprivation. **Stonehouse has more off-licensed premises than any other neighbourhood in the city.**

Stonehouse is the second most deprived neighbourhood in Plymouth and life expectancy is the lowest of any neighbourhood in the city. The burden of alcohol related health harms and hospital admissions are significantly higher in more deprived areas of the city. **The neighbourhood of Stonehouse has the highest rate of alcohol related hospital admissions in the Plymouth.**

This correlation between licensed premises and higher rates of alcohol related hospital admissions appears to provide evidence of a link between outlet density and alcohol related health harms.

Stonehouse is situated within an area that is subject to consideration of a Designated Public Places Order (DPPO) to allow for the proactive management of street drinking and associated anti-social behaviour and nuisance. Plymouth City Council Licensing Policy states that the Licensing Authority may not approve applications for off sales in the following locations;

- Near to alcoholic addiction recovery activities or buildings
- In areas where street drinking affects any of the licensing objectives.

There are a number of alcohol rehabilitation centres, homeless hostels and schools in the near vicinity of this off licence premises.

I consider the application to undermine the following licensing objectives:

(please delete as appropriate)

The Prevention of Crime and Disorder

Public Safety

The Prevention of Public Nuisance

The likely effect of granting the licence as applied will undermine the licensing objectives because:

(How will the application undermine one or more of the four licensing objectives – under each objective explain what problems would occur if the licence were granted as applied for. Provide evidence/experience where possible.)

The Prevention of Crime and Disorder

Public Safety

¹ Re-thinking alcohol licensing, Alcohol Focus Scotland and Scottish Health Action on Alcohol Problems, 2011.

² Alcohol: No Ordinary Commodity, Babor et al. 2010

³ Impact on alcohol-related mortality of a rapid rise in the density of private liquor outlets in British Columbia: a local area multi-level analysis, Addiction, 106. 2011.

Prevention of Public Nuisance

Between April 2015 – February 2016 the number of alcohol related crimes and public order offences in the Stonehouse neighbourhood was the highest of any neighbourhood in the city.

The number of domestic abuse (notified offences) with alcohol classification were also higher than any other neighbourhood in the city.

The proposed variation of premise licence will increase the overall availability of alcohol in this area and is likely to increase overall alcohol consumption, street drinking and associated crime, disorder, anti-social behaviour and public nuisance. It is also likely to have a negative impact on public safety and perceptions of safety.

As well as undermining the above licensing objectives agreeing the variations to this licence will work directly against the objectives of the Strategic Alcohol Plan and the objectives of the Designated Public Places Order in place in this area.

Recommendations

I therefore recommend that this application is granted subject to the following conditions being included:

(Explain why the conditions are necessary and how they address the concerns outlined above)

I therefore recommend that the licensable activities/hours of operation are varied and the following conditions are included:

(Reinforce the points mentioned above about how the application will undermine one or more of the four licensing objectives if the licence were granted as applied for.

Explain why conditions will not address all of the problems identified. Explain how the hours or licensable activities can be varied to address these problems

If both conditions and licensable activities/hours of operation should be added then explain why both are necessary)

I therefore recommend that this application is refused because:

(Reinforce the points mentioned above about how the application will undermine one or more of the four licensing objectives if the licence were granted as applied for.

Explain why conditions will not address the problems identified and why the hours or licensable activities could not be varied to address the problem).

I suggest that the variation to the licence is not granted as it will directly contribute to the overall availability of alcohol in the area and increase overall levels of crime and disorder and public nuisance. This will also negatively affect public safety in the area.

I understand that the premise holder has received warnings from the police for breaching the current conditions of this licence. Therefore I suggest that consideration is also given to the following conditions.

- Staff engaged in the sale of alcohol on the premises shall receive training in age restricted sales and sales refusal
- An incident book/register recording all incidents of crime and disorder is maintained and that this is available for inspection by a police officer or other authorised officer on request
- There will be no display of self-service alcohol within 2 metres of the store entrance.

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 object to the following application I wish to support the following application

Name of applicant (if known) Janagan Somalingam
Premises name and address 156 Union St, Plymouth
Postcode PL1 3HL

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

- Application for a new premises licence
- Application to vary a premise licence
- 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.

Title Mr Mrs Miss Ms Other (please state)

Surname _____ Forenames _____
Address _____
Postcode _____
Email _____ 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 Shelkinah Mission
Address Bath St, Plymouth
Postcode PL1 3LT

I am

Representative of residents association

Representative of trade/business association

Ward Councillor

Other (please specify)

MP

CEO Shekinah

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

Please see point 10 on supporting document

Please see point 11 on supporting document

Please see point 12 on supporting document

Public safety

For example alterations to the premises, capacity limits

The prevention of public nuisance

For example noise disturbance, littering

Please see point 11 on Supporting document.
Please see point 12 on Supporting document

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 15/3/16

Please send the completed form to

Licensing Department
Plymouth City Council

Civic Centre
Plymouth PL1 2AA

T: 01752 305465

E: licensing@plymouth.gov.uk

Considerations for responding to licensing review

- 1. Plymouth's Strategic Alcohol Plan 2013 - 2018 Promote Responsibility, Minimise Harm and the city's 4-4-54 Thrive Plymouth Programme are concerned with reducing alcohol related harm and enabling and encouraging positive choices for better health.
- 2. Approaches to alcohol licensing are an important influence on societal attitudes towards alcohol and drinking behaviours. Whilst the licensing regime does not have a specific health objective it provides an important framework for protecting health and wellbeing through addressing issues of overall supply and availability, supporting the management of the Evening and Night Time Economy and directing specific operating conditions of individual on and off licensed premises.
- 3. There is a growing body of evidence indicating that the number of licensed premises in an area has a direct impact on levels of consumption and subsequent harm¹. Studies have shown clear relationships between density of outlets and levels of violence, traffic accidents and injuries. High outlet density has been directly linked to increased risky drinking and levels of violence². Research from Canada clearly indicates that an increased density of licensed premises led to a rise in overall sales and an increase in alcohol related death rates³.
- 4. In recent years the sale of alcohol from off-licenses, including supermarkets, has risen dramatically and now accounts for nearly half of all alcohol sold⁴. Alcohol is often displayed throughout stores, in multiple aisles, at checkout areas and in entrance points. This marketing approach is linked to price discounting and has contributed to alcohol being seen as an ordinary commodity along with other groceries.
- 5. In Plymouth mapping of on and off licensed premises shows a proliferation of premises in areas of deprivation. Stonehouse has more off-licensed premises than any other neighbourhood in the city.
- 6. Stonehouse is the second most deprived neighbourhood in Plymouth and life expectancy is the lowest of any neighbourhood in the city.
- 7. The burden of alcohol related health harms and hospital admissions are significantly higher in more deprived areas of the city. The neighbourhood of

¹ Re-thinking alcohol licensing, Alcohol Focus Scotland and Scottish Health Action on Alcohol Problems, 2011.

² Alcohol: No Ordinary Commodity, Babor et al. 2010

³ Impact on alcohol-related mortality of a rapid rise in the density of private liquor outlets in British Columbia: a local area multi-level analysis, Addiction, 106. 2011.

⁴ Out of the way? Alcohol displays in supermarkets, Alcohol Concern. 2011.

Stonehouse has the highest rate of alcohol related hospital admissions in the Plymouth.

- 8. This correlation between licensed premises and higher rates of alcohol related hospital admissions appears to provide evidence of a link between outlet density and alcohol related health harms.
- 9. Stonehouse is situated within an area that is subject to consideration of a Designated Public Places Order (DPPO) to allow for the proactive management of street drinking and associated anti-social behaviour and nuisance.
- 10. Plymouth City Council Licensing Policy states that the Licensing Authority may not approve applications for off sales in the following locations;
 - ✓ Near to alcoholic addiction recovery activities or buildings
 - ✓ In areas where street drinking affects any of the licensing objectives.
- 11. The proposed variation of premise licence will increase the availability of alcohol in this area and is likely to increase street drinking and associated crime, disorder, anti-social behaviour and public nuisance. It is also likely to have a negative impact on public safety and perceptions of safety.
- 12. Super strength alcohol products are low cost high strength lagers and ciders above 6.5% ABV. One single 500ml can of 9% super strength lager contains four and a half units of alcohol – clearly exceeding the government's daily recommended safe alcohol limit for men and women. There is evidence that some of these products sold as single cans are available for less than £1. Many of these products are sold in non-sealable containers – thus encouraging them to be drunk in a single sitting. Low cost super strength alcohol is most often drunk by the most vulnerable people in society – including homeless people, people with complex problems and young people. These products can cause serious harm to people's health and can contribute to crime, anti-social behaviour and violence.
- 13. The premise has the opportunity to sign up to Plymouth's voluntary Reducing the Strength campaign and not sell low cost high strength (above 6.5% ABV) lagers and ciders.