

## **Licensing Sub Committee**

**Tuesday 19 January 2016**

### **PRESENT:**

Councillor Rennie, in the Chair.  
Councillor Hendy, Vice Chair.  
Councillors Mrs Bowyer and Fry (Fourth Member).

Also in attendance: Sharon Day (Lawyer), Catherine Fox (Lawyer Observer), Fred Prout (Senior Licensing Officer), Rachel Hind (Senior Environmental Health Officer), Kristin Barnes (Democratic Support Assistant), Helen Rickman (Democratic Support Officer)

The meeting started at 11.00 am and finished at 1.30 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.*

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

Agreed that Councillor Rennie is appointed as Chair and Councillor Hendy is appointed as Vice Chair for this meeting.

### 22. **DECLARATIONS OF INTEREST**

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

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

There were no items of Chair's urgent business.

### 24. **REVIEW OF PREMISES LICENCE - WILL'S AT ONE, RESIDENCE NO.1, ROYAL WILLIAM YARD, PLYMOUTH**

The committee:

1. Proceeded to hear the matter having been advised that the premises licence holder (PLH) would not be attending.
2. Considered the report from the Director of Public Health
3. Heard from the Environmental Health officer as follows:
  - That they have worked with the Premises Licence Holders to attempt to resolve the situation however the use of the rear garden for wedding marquees and other music events is not suitable due to the close proximity of residential properties. This is because the level of noise cannot be adequately controlled and is having a negative impact on the licensing objective for the prevention of public nuisance.

- Due to the time that the music is taking place performance of live and recorded music has fallen outside of the requirements to be licensed.
- The PLH had been advised in July 2014 that noise complaints could occur if the premises were used for wedding marquees
- The first complaint of noise was received in December 2014 but no further complaints arose until July 2015. Noise complaints were then received on the following dates: 31 July 2015, 22 August 2015, 3 October 2015 and 11 December 2015.
- Environmental Health officers visited the complainant's home on the 22 August and 3 October. During their visit on the 22 August the officer's described the noise from those visits as being at an intrusive level that would prevent sleep (lyrics from the music were distinguishable) and that the noise from the premises could be heard with the windows open and shut and above the complainant's TV and washing up noise. On the 3 October the officers described the noise again as being clearly audible with the windows open and closed and prevented sleep. The DJ could be heard speaking on the microphone, drums and vocals were clearly heard and people singing along and shouting could be heard. The music was extremely loud. It was described at one point as being as though a concert was being played in the complainant's back garden. Sound measurements made during the visit recorded noise levels of 22db above background noise levels with the windows closed. BS standard 4142 indicates that where noise from a source is more than 10 dB above background levels then the noise is likely to cause a significant adverse impact. Despite discussions with the PLH's noise consultant the volume of the music could not be reduced sufficiently to prevent unacceptable disturbance to the complainants. The noise consultant advised during a text conversation that 'there wasn't any more down before off'
- The witness statements from the residents re iterated the levels of noise outlined above and explained the effect the music noise had had on them. Other problems mentioned were that they had been disturbed by patrons leaving an event at the premises and also the fact that there was no one at the premises that they were able to discuss the noise problems with.
- The premises had been granted a TEN for the 3 October 2015 after agreeing that live music outside would cease at 10.30pm and all activities would move inside at 11pm. As detailed above, despite these concessions noise problems still occurred at the premises.
- There had been no problems from music noise once the entertainment had moved inside and there had been no problems when patrons used the garden when music was not being played.
- Environmental Health Officers were of the opinion that any future events were likely to cause disturbance as a marquee isn't a suitable structure for holding live or recorded music as there are residential properties directly behind the garden wall.
- Environmental Health have tried to work with the PLH however the attempts to control the noise have not been successful. Due to the problems that have occurred Environmental Health recommended that live and recorded music should not be

permitted in the garden at any time. They considered that live and recorded music could be held inside the property if sufficient noise conditions were applied to the licence. The suggested conditions were detailed in the information provided by Environmental Health in the response to notice of hearing.

4. In addition to the witness statements from the complainants, representations had also been received which reiterated the problems outlined in a witness statement produced by Environmental Health but also stated that since Environmental Health involvement or the lack of good weather to hold outside events, the noise levels had improved.
5. When reaching their decision the committee took into account the representations received, the summary of evidence and witness statements from Environmental Health and the response to notice of hearing received from the PLH. The committee did not take account of the decibel reading levels however they focused on the description of the noise and the reported impact it had had on the local residents. They also took account of the failed attempts that had been made to control the noise when the TEN had been granted.
6. Considered that the representations received from both the residents and Environmental Health were relevant under the licensing objectives of prevention of public nuisance and protection of children from harm.
7. The committee agreed that based on what they had heard the rear garden at the venue was not suitable for live or recorded music to be played or performed. This was because it was not possible to control the noise levels the music generated and this was due to the venue's close proximity to residential properties. The committee therefore considered that in light of the evidence it was appropriate to apply the following condition to the licence in order to promote the licensing objectives referred to above:

'There shall be no live or recorded music played or performed in the rear garden of the premises at any time. (Section 177A of the Licensing Act 2003 does not apply to this condition)'

The committee also noted that one of the residents had encountered problems in contacting a member of staff to discuss noise issues they were experiencing and therefore the committee considered that in order to promote the licensing objectives referred to above it was appropriate to attach a further condition to the licence as follows:

'The Premises Licence Holder or nominated person shall ensure a telephone number is made available and displayed in prominent locations 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. (S.177A of the Licensing Act 2003 does not apply to this condition)

The committee considered whether any other conditions put forward by Environmental Health should be applied to the licence however they noted that there had not been any

problems as a result of music being performed/played inside the building or by the use of the garden per se and therefore they did not consider that it was appropriate to add any further conditions to the licence.

25. **VARIATION OF PREMISES LICENCE - PL4 CAFE, 8 DRAKE CIRCUS, PLYMOUTH**

The committee:

1. Considered the report from the Director of Public Health
2. Heard from the applicant that :
  - The application had been made mainly to extend the hours that late night refreshment was provided. The premises wished to provide food and soft drinks between 1am and 7am.
  - The additional hour for the sale of alcohol had been made as a result of a meeting with the Police and Environmental Health who had said they would not object to such an extension

With regard to the representations that had been made, the applicant:

- Did not consider that there would be an increase in customers to the area as the premises had operated there before. As a result he did not consider that there would be any increase in anti-social behaviour or noise.
- Did not consider that there would be an increase in litter as this was not a take away establishment and there was also a large council litter bin directly opposite the premises. With regards to their trade waste there was a contract in place to deal with this.
- There would be no change to delivery times which would continue to take place during daytime hours with there being no deliveries between 1am and 5am.
- There was no intention to extend the premises and if they wished to do this they would need a new licence.
- The kitchen had been refurbished and inspected so would be able to cope with demand
- During the meeting with Police Licensing they had confirmed that due to their small capacity, door staff would not be required. If there were any unforeseen problems they had the ability to call City Security who worked for PL4 bar next door.
- The service of food and alcohol would be by table service only and not takeaway
- He considered that the additional provision of late night refreshment would assist in reducing the levels of crime and disorder and nuisance in the area as a cool down area as it would stop people wandering around the streets and the food would help soak up any alcohol.
- The premises would serve all sort of food and whilst the Bar is in the café and customers would not be required to order food, alcohol could only be consumed whilst seated at tables and opened containers would not be permitted to be removed from the premises or brought into them.
- The Car Park is private and so there would be no members of public parking there. There is no exit from here onto Drakes Circus but only onto Tavistock Place. The main entrance to the premises was from Drakes Circus.
- Appendix 2 of the report sets out the conditions that will apply

3. Were advised that correspondence sent to three of the residents who had made objections had been returned 'not known at this address'. However without further information committee still took these representations into consideration in reaching their decision. The following written representations were received:

#### Prevention of Public Nuisance

- Disruption was already caused by students and young adults in the area and this would become worse with another venue to add to this. Existing problems in relation to noise from drunken revellers would worsen. This was considered to be relevant under this licensing objective however in effect the application was to add one extra hour for the sale of alcohol and the addition of food provision should help to reduce existing problems.
- There was a risk of an increase in the litter problems that already exist in the area. This was considered to be relevant under this licensing objective however members had been advised that the premises was not going to operate as a takeaway and so there should be no litter associated with these premises.
- Deliveries may logistically cause a nuisance in the area in addition to adding to parking problems. This was not considered to be relevant as there would be no change to delivery times as a result of this application.

#### Prevention of Crime and Disorder

- The venue will cause and increase damage from intoxicated adults and cause an increase in crime levels generally. This was considered to be relevant under this licensing objective however in effect the application was to add one extra hour for the sale of alcohol and the addition of food provision should help to reduce existing problems.
- Due to an entry and exit point into a car park on Drakes Circus, damage was likely to be caused to parked cars. The entry and exit point were not in a suitable location. This was considered to be relevant under this licensing objective however the car park is private so no members of the public will be parked there and the car park referred to is actually on Tavistock Place. The main entry and exit point is on Drakes Circus. Members did not consider that the granting of the licence will cause the problems mentioned in the representation.
- One resident said that they found it a very daunting experience walking home at night at present and that the addition of this licence would make them feel even more hesitant. This was considered to be relevant under the above licensing objective however the committee did not consider that there would be any added footfall to the area and members believed that as this is a food led outlet it may help to alleviate problems in the area.

- There were concerns that the plan was to extend the premises into an existing one thus making it a large venue which would significantly impact on customer flow. This was not considered to be relevant under any of the licensing objectives.

The committee in reaching its decision took account of all the relevant representations, all that was said by the applicant, statutory guidance and their own licensing policy. In respect of their own licencing policy the committee noted that representations had been received which bought the cumulative impact policy into effect. However the committee agreed that as a result of what they had heard from the applicant and all that was contained in his operating schedule that there would be no negative cumulative impact on the licensing objectives and that therefore the licence would be granted as detailed in the report subject to the conditions put forward in the applicant's operating schedule and mandatory conditions contained in the Licensing Act 2003.

26. **EXEMPT BUSINESS**

There were no items of exempt business.