

## PLYMOUTH CITY COUNCIL

**Subject:** Review of Premises Licence  
Beresford Arms

**Committee:** Licensing Sub Committee

**Date:** 19 July 2016

**Cabinet Member:** Councillor John Riley

**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](mailto:licensing@plymouth.gov.uk)

**Ref:** ERS/LIC/PREM

**Key Decision:** None

**Part:** I

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### **Purpose of the report:**

An application has been received from Devon and Cornwall Police under Section 51 of the Licensing Act 2003 for the review of the premises licence and under Section 53A of the Licensing Act 2003 for the summary review of the premises licence in respect of the Beresford Arms, 9 Cumberland Street, Plymouth.

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### **The 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](#)

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

Not applicable

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**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.

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**Equality and Diversity:**

Has an Equality Impact Assessment been undertaken? No

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**Recommendations and Reasons for recommended action:**

Members consider this report.

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**Alternative options considered and rejected:**

None

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**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 - June 2014**

**Background papers:**

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

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**Sign off:**

Fin		Leg	2598 3/cf/ 0407 2016	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 1 June 2016 the licensing department received an application from Devon and Cornwall Police under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of Beresford Arms situated at 9 Cumberland Street, Devonport, Plymouth.

1.2 On the 22 June 2016 the licensing department received an application from Devon and Cornwall Police under Section 53A of the Licensing Act 2003 for a summary licence review in respect of Beresford Arms situated at 9 Cumberland Street, Devonport, Plymouth.

### **1.3 Review application.**

Devon and Cornwall Police have applied for the review of the premises licence for the purpose of promoting the licensing objectives in relation to the prevention of crime and disorder, public safety and the prevention of children from harm. A Copy of this application has been served by Devon and Cornwall Police on each of the responsible authorities and the holder of the premises licence.

The police will allege that from December 2015 the premises have been subject to Drunkenness, assault and criminal damage. Numerous attempts were made by telephone, letter and email to address the matters and in January 2016 following a meeting at the police station an action plan was requested but nothing was received. Since the meeting several further attempts were made to contact the DPS between January and April 2016 requesting contact by email and telephone with no reply. A further incident of violence and disorder occurred on 24 April 2016. The police allege the facts indicate that the management of the premises cannot effectively control the activities of the customers using the smoking area or congregating in the vicinity of the premises and therefore failing to effectively engage with the licensing objectives.

In accordance with review proceedings at 1408hrs on 02 June 2016 a licensing officer from Plymouth City Council attended the premises and posted a copy of the review and requested the site notice be displayed at the premises. A site notice was cable tied to a lamp post situated immediately outside of the premises.

At 1511hrs the same day a similar notice was displayed on the public notice board at the One Stop, New George Street, Plymouth.

1.4 Devon and Cornwall Police submitted a certificate together with an application for the review of the premises licence to the licensing authority signed by a Detective Superintendent on 22 June 2016 stating that the premises (Beresford Arms) were associated with both serious crime and serious disorder.

Upon receipt of the application the Licensing Authority had to give consideration as to whether it was appropriate for any interim steps to be taken pending the outcome of the review hearing. This decision had to be made within 48 hours and could only be made by members of the Licensing Committee.

The interim steps that the licensing authority was able to consider were:

- Modification of the conditions of the premises licence.
- The exclusion of the sale of alcohol by retail (or other licensable activities) from

the scope of the licence.

- Removal of the designated premises supervisor from the licence and
- Suspension of the licence.

In accordance with review proceedings at 1630hrs on 22 June 2016 a licensing officer from Plymouth City Council attended the premises and attached a site notice to the lamp post immediately outside of the premises and gave a copy of the certificate and application with a site notice to the bar person in the premises.

At 1635hrs the same day a similar notice was displayed on the public notice board at the Civic Centre, Armada Way, Plymouth.

The licensing Sub Committee met on 24 June 2016 to consider whether it was necessary to impose interim steps pending the review of the licence. The police and premises licence holder were present at the meeting.

Taking into account all the information available to the committee at that time, the committee decided that it was appropriate to take the following interim steps.

- Suspension of the licence.

Having considered interim steps the Licensing Authority must now review the licence and reach a decision within 28 days of receipt of the application.

## 2.0 Licensable Activities.

These premises have the following licensable activities and timings.

### Premises Open Hours

	<b>Time From</b>	<b>Time To</b>
Monday to Wednesday	10:00	01:00
Thursday to Saturday	10:00	02:00
Sunday	10:00	01:00
Non Standard Timings:		
New Years Eve except on a Sunday, 10.00 to 23.00		
New Years Eve on a Sunday, noon to 22.30		
New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		

### E. Performance of live music (Indoors)

	<b>Time From</b>	<b>Time To</b>
Monday to Thursday	12:00	23:00
Friday and Saturday	12:00	23:59
Sunday	12:00	23:00
Non Standard Timings:		
New Years Eve, from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		

### F. Playing of recorded music (Indoors)

Monday to Wednesday	10:00	01:00
Thursday to Saturday	10:00	02:00
Sunday	10:00	01:00
Non Standard Timings:		
New Years Eve, from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		

### J. Provision of facilities for dancing (Indoors)

Monday to Wednesday	10:00	01:00
Thursday to Saturday	10:00	02:00
Sunday	10:00	01:00

Non Standard Timings:

New Years Eve, from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.

**L. Late night refreshment (Indoors)**

Monday to Wednesday	23:00	01:00
Thursday to Saturday	23:00	02:00
Sunday	23:00	01:00

Non Standard Timings:

New Years Eve, from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.

**M. The sale by retail of alcohol for consumption ON and OFF the premises**

Monday to Wednesday	10:00	01:00
Thursday to Saturday	10:00	02:00
Sunday	10:00	01:00

Non Standard Timings:

New Years Eve, from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.

2.1 Conditions attached to the licence (Appendix 1)

### 3.0 RESPONSIBLE AUTHORITIES

3.1 *Environmental Health – have made representations (Appendix 2)*

3.2 *Devon and Somerset Fire & Rescue Service – no representations.*

3.3 *Trading Standards – no representations*

3.4 *Planning Officer - no representations.*

3.5 *Child Protection – no representations*

3.6 *Health and Safety Executive – no representations.*

3.7 *Health Authority – no representations.*

3.8 *Licensing Authority – no representations*

### 4.0 OTHER PARTIES

One letter of representation has been received (Appendix 3)

### 5.0 CONSIDERATIONS

5.1 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: Paragraph 11.1 – 11.11, 11.14-11.15, 11.16 – 11.23, 11.24-11.28

The Council's own Licensing Policy with the following headed paragraphs being relevant to this application: Licensing Hours (Page 11), Designated Premises Supervisor (Page 13), Preventing Glass Injuries (Page 13), Public Nuisance (Page 17 – 18) and Licensing Conditions (page 20), Review of premises licence (Page 22-23)

Also the representations (including supporting information) presented by all the parties.

5.2 The steps are available to the Committee in relation to both Reviews 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.

Where the committee takes a step in 5.2 (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.

The committee must secure that, from the coming into effect of the decision made on the determination of the review the interim steps having effect pending that determination cease to have effect (except if they become steps to be taken under 5.2 above).

## **6.0 RIGHT OF APPEAL**

- 6.1 An appeal may be made to the Magistrates Court within 21 days of the licence holder being notified of the licensing authority's decision. An appeal may be made by the premises licence holder, the chief officer of police and / or any other person who made relevant representations.
- 6.2 The decision of the licensing authority following the hearing will not have effect until the end of the period allowed for appeal or until the appeal is disposed of. Any interim steps taken will remain in force through this period.

**ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE****A Supply of alcohol**

- Any existing conditions attached to existing justices licence
- The authorised hours for the sale of alcohol do not prohibit:
  1. during the first twenty minutes after the end of authorised hours the consumption of the alcohol on the premises;
  2. during the first twenty minutes after the end of authorised hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
  3. during the first thirty minutes after the end of authorised hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
  4. consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
  5. the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
  6. the sale of alcohol to a trader or club for the purposes of the trade or club;
  7. the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
  8. the taking of alcohol from the premises by a person residing there; or
  9. the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
  10. the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of alcohol so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

**B Steps taken to promote the Four Licensing Objectives**

1. Notices in place requesting their co-operation when exiting the premises
2. Bar inner door fitted with door closing return system
3. There is a loyalty account with the local taxi service
4. No under 18 year olds permitted in to the licensed premises

**Minor Variation April 2014****MANAGEMENT CONTROLS -**

- All staff shall be fully trained to perform their role. The Premises Licence Holder 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, prior to undertaking the sale of alcohol and then at least every six months. They will also be trained in the contents of the premises licence including times of operation, licensable activities and all conditions.

- Training shall be conducted every 6 months and 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.
- All staff shall be trained in the requirements of the Challenge 25 policies. The following types of acceptable identification are UK Photo Driving Licence, PASS Card and Passport.
- All staff shall be suitably trained in the operating procedures for refusing service to any person who is drunk or is under-age or appears to be under-age.
- 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 any violence, criminality or anti-social behaviour. The record will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident.
- A list of banned individuals is to be recorded in the Incident book with name description of individual, length of ban and reason.
- An incident book shall be available for inspection at all reasonable times by an authorised officer of relevant responsible authority. The records will be retained for at least 12 months.
- The Premises Licence Holder and/or Designated Premises Supervisor and/or Responsible person shall not allow any open drinking vessel, glass or bottle to be taken from the premises.
- The Premises Licence Holder and/or Designated Premises Supervisor and/or Responsible person shall ensure that a clearly visible notice is displayed advising those attending, that the Police will be informed if anyone is found in possession of controlled substances or weapons.
- The Premises Licence Holder or nominated person shall ensure that arrangements are in place where toilet areas and other similar areas are regularly checked for evidence of drugs. Signage shall also be placed in the toilet areas advising patrons that checks are conducted regularly.

#### **CCTV -**

- 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](http://www.informationcommissioner.gov.uk)) regarding installation of CCTV is provided at the premises.
- The CCTV system shall be capable of downloading images to a recognizable viewable format.
- All members of staff are to be trained to operate the CCTV system and able to download footage onto a recognised format when requested by an authorised officer of relevant responsible authority.
- The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.
- The CCTV system shall cover all areas of the premises to which the public have access, including outside the frontage of the premises/smoking area and regularly monitored.
- Images shall be retained for a minimum of 31 days
- The Police Licensing Department will be informed if the CCTV system is not fully working during licensed hours.

#### **GLASSWARE AND BOTTLES -**

- 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.



## RESTRICTIONS ON DRINKING AREAS -

- 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.

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

**27 SEPTEMBER 2005**

1. From 23.00hrs until closing, noise emanating from the premises will not be distinguishable above background levels one metre from the façade of the nearest residential property.
2. HOURS
  - a) Opening hours be granted to take place on the following days and hours: Sundays to Wednesdays, opening hours to be between 10.00hrs and 01.00hrs and Thursday to Saturday, opening hours to be between 10.00hrs and 02.00hrs as requested in the application
  - b) Regulated entertainment by way of indoor live music applied for, be granted to take place on the following days and hours: Sunday to Thursday, between 12.00hrs to 23.00hrs and Fridays and Saturdays between 12.00hrs to 23.59 as requested in the application. This being offered by the applicant.

## **CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY OF 29 SEPTEMBER 2009**

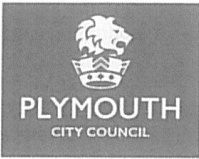
### Conditions from Environmental Health -

- 1 Doors and windows will be kept shut during entertainment.
- 2 Staff will check prior to entertainment, and periodically during the entertainment, that all windows and doors are shut.
- 3 Management will take steps to control levels of noise if found to be excessive.
- 4 Patrons will be asked not to stand around talking in the street outside the premises or any car park; and asked to leave the vicinity quickly and quietly.
- 5 The terminal hour for live entertainment shall be brought forward to 23:00hrs.
- 6 The Designated Premises Supervisor or a Nominated Deputy should have a full understanding of the conditions attached to the premises licence, and must be present at the premises at all times during regulated entertainment.
- 7 A noise limiting device shall be installed and will operate at a level set in conjunction with Environmental Health. All regulated entertainment must be played through the limiting device. The device shall be operational by the 30 November 2009.

### Conditions from Devon and Cornwall Police -

- 8 Whenever the Designated Premises Supervisor is not at the premises another responsible person will be nominated by the Designated Premises Supervisor as being the person to manage the premises;
- 9 CCTV to be installed to comply with the 'UK Police Requirements for Digital CCTV Systems';
- 10 CCTV cameras to be kept clean and maintained at all times;
- 11 A register will be kept detailing all requests by Police for CCTV images. This will include time and date of request, time, date and location of incident, time and date of hand on to Police;

- 12 During trading hours, members of staff present who are trained to view and download images from CCTV at request of Police;
- 13 The Police Licensing department will be informed if the CCTV system is not working;
- 14 All relevant incidents will be reported to the Police at the earliest opportunity;
- 15 Any person who looks or appears to be under the age of 21 shall be asked to provide identification that they are over the age of 18. The following are the only forms of identification acceptable: UK photo driving licence Passport PASS accredited cards;
- 16 Notices obtained from Police publicizing the Challenge 21 initiative shall be clearly displayed at the entrance to the premises and behind the bar area at all times;
- 17 Regular and documented training of staff in relation to the prevention of under age sales



**Office of The Director of Public Health**

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Date 6th June 2016

My Ref SRU/882533

Your Ref

Dear Mr Prout

**Re: The Beresford, 9 Cumberland Street, Devonport, PL1 4DX  
Licensing Act 2003**

Following the application for the review of a premises licence received from Devon and Cornwall Police, Plymouth City Council Environmental Health Department would like to support the review as a responsible authority. The following information is relevant to the application.

23<sup>rd</sup> March 2016 – complaint received regarding noise emanating from the Beresford Arms and trading taking place beyond licenced hours until 3am.

31<sup>st</sup> March 2016 – letters sent to the Premises Licence Holder and DPS, Samantha Burrell. Copies of the letter were sent to the Public House at 9 Cumberland Street and Miss Burrells home address, 90 George Street, Plymouth, PL1 4HS. The letter requested that Miss Burrell Contact me to discuss the complaint.

5<sup>th</sup> April 2016 – telephone call made to Miss Burrell using the contact number provided on her premises licence. The call went straight to voicemail; a message was left for her to contact me.

18<sup>th</sup> April 2016 – Further complaint received regarding noise emanating from The Beresford and also a lot of broken glass in the street that was smashed by customers.

18<sup>th</sup> April 2016 - Email sent to Plymouth City Council Street Scene who attended site to clear broken glass.

18<sup>th</sup> April 2016 - telephone call made to Miss Burrell using the contact number provided on her premises licence. The call was not answered; a voicemail message was left for her to contact me.

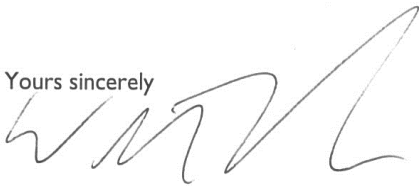
24<sup>th</sup> April 2016 – Complaint received during out of hours by Patrick Vawdrey, Environmental Health Officer. Mr Vawdrey attended a local residential property and witnessed a fight in the street outside The Beresford. A witness statement and video footage of the incident was provided to Devon and Cornwall Police.

27<sup>th</sup> April 2016 - telephone call made to Miss Burrell using the contact number provided on her premises licence. The call was not answered; a voicemail message was left for her to contact me.

To date no contact has been received by this department from Samantha Burrell in response to the letter sent on the 31<sup>st</sup> March 2016 and any of the 3 subsequent voicemail messages.

Based on the lack of response to any correspondence from this department and the representations provided by Devon and Cornwall Police this department would support the removal of Samantha Burrell as DPS of the Beresford as she has not engaged with the responsible authorities to discuss problems relating to the licensing objectives of Prevention of Public Nuisance and Crime and Disorder.

Yours sincerely

A handwritten signature in black ink, appearing to read 'W Tomkins', written in a cursive style.

**Will Tomkins**  
Environmental Health Officer  
Public Protection Service

**Price, Marie**

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**Subject:**

FW: OFFICIAL: FW: Beresford Arms

**From:** debbie

**Sent:** 20 June 2016 12:17

**To:** Licensing

**Subject:** Beresford Arms

Dear Sir/Madam

My name is \_\_\_\_\_ and I live at \_\_\_\_\_ from the Beresford Arms. My husband and I are also one of the residents who have rang in a few complaints and on one occasion had to call out the out of hours team who managed to film a typical night at the pub.

I dont know if this email address is for residents or not but I though it was worth a try. We are hoping that the licence does get revoked permantly as when it was shut before and the licence transfered to someone else, the original licensee carried on working there which meant the same crowd carried on going to the pub and causing the same amount of trouble as before. On one occasion one of their tennants took to throwing stuff out of the windows which nearly hit a customer which in turn led to another shouting match. On this occasion the licensee did come out only to stick up for her tennants

One of the other problems which we class as serious as it can cause a lot of damage is broken glass. Quite often we hear glasses and bottles getting smashed outside and not one person from the pub will clear it up. There are work vans as well as peoples cars that are parked in the street, and on one occasion we had a visitor turn up in her car that went over a bottle as she didn't see it in time and a piece shot out from under the car and nearly hit a pedestran.

The licensee doesn't seem to care about the residents who work and the fact that there are a lot of children in the street who have to put up with the sort of language, shouting and fighting that comes from people who can't control their drink.

I hope this is the right email address to complain about something as I have never had to do this before.

Yours Sincerely