

## PLYMOUTH CITY COUNCIL

**Subject:** Bar Rakuda  
Variation of Premises Licence

**Committee:** Licensing Sub Committee (Miscellaneous)

**Date:** 30<sup>th</sup> May 2017

**Cabinet Member:** Councillor John Riley

**CMT Member:** Dr Ruth Harrell (Office of the Director of Public Health)

**Author:** Bev Gregory

**Contact details:** Tel: 01752 668000  
email: [licensing@plymouth.gov.uk](mailto:licensing@plymouth.gov.uk)

**Ref:** ERS/LIC/PREM VAR

**Key Decision:** No

**Part:** I

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

An application has been received from Anna Oxinou and Paris Oxinou respect of the Bar Rakuda, 10 & 11 Quay Road, Barbican, Plymouth, PL1 2JZ for the Variation of a premises licence under Section 34 of the Licensing Act 2003.

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### **Our Plan - One City Council 2016 to 2019:**

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:**

That 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 - March 2015](#)

**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	2811 0/ag/ 5.5.1 7	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 27<sup>th</sup> March 2017 the licensing department received an application from Anna Oxinou and Paris Oxinou for the Variation of a Premises Licence under Section 34 of the Licensing Act 2003 in respect of Bar Rakuda situated at 10 & 11 Quay Road, Plymouth, PL1 1JZ.

1.2 Details of variation  
To extend hours on a Sunday from 00.00hrs to 0200hrs

Current Licensable Activities	Variation Application
<p><b><u>Live Music</u></b></p> <p>Hours</p> <p>Monday to Saturday 0900hrs to 0200hrs</p> <p>Sunday 0900hrs to 0000hrs</p> <p>Non Standard Timings.</p> <p>All bank holidays, Christmas Eve, New Year's Eve, Valentine's Day, May Day, Easter Saturday and Sunday 09.00hrs until 04.00hrs</p>	<p>Hours</p> <p>Monday to Sunday 0900hrs to 0200hrs (On and Off the premises)</p>
<p><b><u>Recorded Music</u></b> (Indoors)</p> <p>Hours</p> <p>Monday to Saturday 0900hrs to 0200hrs</p> <p>Sunday 0900hrs to 0000hrs</p> <p>Non Standard Timings.</p> <p>All bank holidays, Christmas Eve, New Year's Eve, Valentine's Day, May Day, Easter Saturday and Sunday 09.00hrs until 04.00hrs</p>	<p>Hours</p> <p>Monday to Sunday 0900hrs to 0200hrs (On and Off the premises)</p>
<p><b><u>Late Night Refreshment</u></b></p> <p>Hours</p> <p>Monday to Saturday 2300hrs to 0200hrs</p> <p>Sunday 2300hrs to 0000hrs</p> <p>Non Standard Timings.</p> <p>All bank Holidays, Christmas Eve, New Year's Eve, Valentine's Day, May Day, Easter Saturday and Sunday 09:00 hours until 04:00 hours.</p>	<p>Hours</p> <p>Monday to Sunday 2300hrs to 0200hrs (On and Off the premises)</p>
<p><b><u>Hours premises are open to the public</u></b></p> <p>Hours</p> <p>Monday to Saturday 0900hrs to 0230hrs</p> <p>Sunday 0900hrs to 0000hrs</p> <p>Non Standard Timings.</p>	<p>Hours</p> <p>Monday to Sunday 0900hrs to 0230hrs</p>

All bank holidays, Christmas Eve, New Year's Eve, Valentine's Day, May Day, Easter Saturday and Sunday 09.00hrs until 04.00hrs	
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### **1.3 Variation application**

The nature of the proposed variation is to extend the permitted hours for sale of alcohol, late night refreshment, live music, recorded music to 02:00 hours on a Sunday.

1.4 Appendix I sets out the current conditions which are attached to the premises licence.

1.5 Representations have been received in respect of this application.

### **1.6 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* – no representations.

2.2 *Environmental Health* – no representations

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 *Health Authority (ODPH)* – no representations.

2.9 *Licensing Authority* – no representations

## **3.0 OTHER PARTIES**

4 letters have been received that are attached to this report marked appendix 2 to 5.

## **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 paragraph's relevant to this application:
  - 1.2 - 1.5, 1.9, 1.10, 1.12, 1.16, 1.17
  - 2.14 - 2.18 and 2.20
  - 9.1, 9.3, 9.36, 9.37, 9.38, 9.41, 9.42 and 9.43
  - 10.8, 10.9, 10.10, 10.13, 10.14,
  - 13.20 – 13.23, 13.30 -13.31 and 13.36 – 13.39
- The Council's own Licensing Policy with the following headed paragraphs being relevant to this application:
  - Licensing Objectives - Prevention of Public Nuisance (page 9)
  - Licensing Hours (Page 11)
  - Public Nuisance (Page 17 – 19)
  - Licensing Conditions (page 20) and
  - Use of petitions (page 23) Review of premises licence (Page 22-23)
  - Cumulative Impact Policy (pages 25-26 and Appendix 1)

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**

No adult entertainment

### **Conditions agreed with The Environmental Health Authority**

#### **PUBLIC NUISANCE**

1. During regulated entertainment, to prevent entertainment being intrusive, noise emanating from the premises will not be clearly distinguishable above other noise one metre from the façade of the nearest residential property
2. A senior member of staff (manager) will assess the impact of any noisy activities on neighbouring premises at the start of the activity/entertainment and periodically throughout the activity/entertainment and take action to reduce noise levels if they are found to be excessive/distinguishable above background levels at the nearest residential property
3. Recorded music or live music will not be played or 'piped' to the outside seating areas that can be heard outside of the area indicated on your plan

#### **Use of Outside Areas**

4. The use of the outside area will not commence before the start of normal trading hours and will cease at 23.00 hrs.

#### **Before 11.00pm**

5. To prevent entertainment being intrusive, noise emanating from the premises will not be clearly audible 1 metre from the facade of the nearest residential property.
6. Doors and windows will be kept closed after 23.00 hrs

#### **Between 11.00pm & 12 midnight**

7. To prevent entertainment being intrusive, noise emanating from the premises will not be clearly distinguishable above other noise 1 metre from the facade of the nearest residential property.

#### **Between 12 Midnight and 2.00am**

8. Noise emanating from the premises will not be distinguishable above back ground levels 1 metre from the facade of the nearest residential property.

#### **After 2.00am until 8.00am**

9. Total sound containment within the premises.
10. A senior member of staff (manager) will periodically assess the impact of any noise on neighbouring residential premises throughout the evening and night trading hours, and take remedial action as necessary.
11. Signage will be displayed at the exit to request the co-operation of patrons to leave the premises quietly, and to avoid standing around talking outside once they have left.

### **Noise from plant and machinery**

12. Provision of mechanical refrigeration, ventilation and air conditioning systems will not allow noise breakout from the premises or cause a nuisance by its operation.
13. Regular maintenance will be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.

### **Live Entertainment - outdoors**

14. Live Entertainment should be limited to 'low key music' typically classical guitarist and vocalist or traditional Jazz/Blues music
15. Any one performance be limited to two hours duration, inclusive of any breaks
16. Live entertainment to be limited to one event per day.
17. After the completion of any live entertainment set, the event will not be followed with the playing of recorded amplified music outside the premises, within the control of the licensee
18. Live entertainment shall not be permitted beyond 22.30
19. Live entertainment shall be incidental to the use of the premises for the entertainment of patrons using the canopied area
20. Patrons should not be allowed to congregate on the public highway and paved areas outside as a consequence of the live entertainment.

### **PUBLIC SAFETY**

21. A senior member of staff (manager) will periodically assess the ambient temperature of the bar. Where temperature rises exceed comfortable levels, remedial action will be taken as necessary.

### **Conditions that have been agreed with the Police Licensing Authority.**

1. Chairs and Tables may only be placed within the confines of the existing seating area bordered by glass screening.
2. No other furniture may be placed on to the footpath or access road without the written consent of the police, Sutton Harbour and Fire Service.
3. A designated member of staff will be responsible for ensuring that customers remain seated within the designated seating area at all times.
4. No open or sealed vessels containing alcoholic drinks to be taken outside the premises, unless they are to be consumed within a designated external licensed seating area.
5. Any live music performed within the outside seating area must not be amplified to a level so as to be heard beyond the designated seating area.
6. Live music volume must be limited so as to not impact on customers enjoyment of adjacent external seating areas or other residents within the locality.
7. The manager or designated member of staff is responsible for managing and controlling the customers use of the outside seating area.
8. No customer shall be permitted to take drinks from the licensed premises unless they are able to consume the drinks whilst seated within the designated seating area.
9. No glassware or glass bottles to be taken from the premises or served by staff service away from the bar on all bank holidays, Sundays preceding them, Christmas Eve, New Year's Eve and at times of local festival activities and events.
10. At times when glassware is permitted for use outside the premises toughened or safety glassware will be used.

### **Steps that have been taken to promote the four Licensing Objectives**

1. Live music outside the premises will be restrained in volume and is intended to provide music by way of background entertainment for diners in the external seating area.

**13/05/13 Minor Variation -**

**CONDITIONS AGREED BY DEVON & CORNWALL POLICE LICENSING AUTHORITY**

**PROTECTING CHILDREN FROM HARM - UNDERAGE SALES OF ALCOHOL**

The Licence Holder or nominated person shall have a written age verification policy in relation to the sale or supply of alcohol. This policy will include documented steps taken to prevent adults from purchasing alcohol for or on behalf of children under 18s and will specify a Challenge 25 proof of age requirement before sales of alcohol are made.

The Licence Holder or nominated person shall ensure that all bar staff, supervisors and managers are trained in the legality and procedure of alcohol sales, prior to undertaking the sale of alcohol. Training shall be signed and documented and training records be made available to an enforcement officer on request. Training will be undertaken every 6 months.

The EPOS system in use at the premises will include Challenge 25 age verification prompts.

The Licence Holder shall ensure a sale refusal register is maintained to include details of all alcohol sales refused and the reason for refusal. The refusals register should be made available to an authorized enforcement officer on request.



**Prout, Frederick**

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**From:** McDonald, Sue  
**Sent:** 25 April 2017 15:26  
**To:** Licensing  
**Cc:** Penberthy, Chris; Tuffin, Ian  
**Subject:** Variation of Premises Licence - Bar Rakuda

To the Licensing Officer,

I would like to attend the meeting of the Licensing Committee to speak against the extension of the licence for live music performance on each Sunday until 0200hrs.

I am responding to resident concerns about the impact this will have on the surrounding neighbourhoods which in their view would cause a public nuisance which could lead to disorder and, given the relative lateness of the early hours of the morning, prevent babies and children from sleeping where regular sleep disturbance is known to cause harm.

Please let me know if I have to undertake any further action on this matter and also when this will be heard at the Licensing Committee.

Regards,

Sue

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**Councillor Sue McDonald**

St Peter and the Waterfront ward  
Plymouth City Council  
Shadow Cabinet Member  
Children and Young People  
The Council House  
Plymouth  
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**Prout, Frederick**

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**From:**  
**Sent:** 24 April 2017 09:38  
**To:** Licensing  
**Subject:** Bar Rakuda

Dear Sir or Madam,

SUBJECT; OBJECTION AGAINST LICENSING APPLICATION BAR RAKUDA

I wish to object to the application for an extension on the license of Bar Rakuda. 10-11 Quay Road PL1 2JZ.

I live in Dolphin House and already suffer from a poor nights sleep due to the noise coming from this bar. They often continue beyond their license and cause considerable disturbance to residence. I do not understand why such a license would be granted when its inconsistent with the City Plan.

Public nuisance.

The live and recorded music already causes a public nuisance and it can only get worse with extended hours.

Prevention of crime and disorder.

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Anti social behaviour is rife in this area and it will become worse if this and other bars are allowed to extend their hours.

Protection of children from harm.

This is a mixed area with singles and families residing. If granted this license will expose children to a poor nights sleep and anti social behaviour. This is a significant problem and I can see it escalating out of control.

Yours faithfully,

**Prout, Frederick**

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**From:**  
**Sent:** 07 April 2017 12:17  
**To:** Licensing  
**Subject:** Representation against licensing application

I would like to object to the application by Bar Rakuda for a license to provide alcohol and live music until 2 am seven days a week. This would set a very dangerous precedent and contribute further to the gradual deterioration of the area.

**Prevention of Crime and disorder:** If the license were to be granted, other premises would be likely to follow suit. There would be an inevitable increase in the number of drunken, noisy people in the streets, leading to more anti-social behaviour. An even greater police presence than is now the case would be required, and for a longer time, especially on Fridays and Saturdays.

**Public Safety:** As mentioned above, residents and members of the public would be affected by the increase in noisy, drunken people, and would be more likely to be victims of anti-social behaviour and petty crime.

**The prevention of Public Nuisance:** Residents in the Barbican area are already disturbed by music from the Bar Rakuda and other venues until around midnight. An extension of this disturbance until 2 or 2.30 am would be unacceptable. The Barbican is not Union Street! It is a historic area with a lot of heritage, and live music and drinking until the early hours lead to noisy people in the streets and more litter, not consistent with a residential, family-friendly area.

**Protection of children from harm:** As pointed out above, an extension of drinking and live music into the early hours is not consistent with providing a family-friendly environment.

Yours faithfully

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**Prout, Frederick**

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**From:**  
**Sent:** 06 April 2017 15:46  
**To:** Licensing  
**Subject:** Representation against licensing application

I wish to object to the grant of the license application by Bar Rakuda, 10-11 Quay Rd, Plymouth PL1 2JZ, on the grounds primarily of public nuisance and prevention of harm to children, and secondarily prevention of crime and disorder.

The application is also inconsistent with the City Plan, which identifies the area for family entertainment. This is inconsistent with late night music and drinking,

Public nuisance.

Bar Rakuda's live and recorded music already cause considerable public nuisance in this mixed commercial/ residential environment.

At present, their music generally does not finish until about 2330 (which I believe to be later than that currently permitted in any case). Their music is also frequently accompanied by audience singing/shouting, further exacerbating the disturbance.

For example, my lounge and bedroom windows are about 200m away from the bar, across the harbour, and I regularly record music sound levels of 55-60dB ( on admittedly uncalibrated equipment) at this distance. In consequence, it is impossible to watch television in the summer without closing all the windows, and sleep before 2330 is substantially disturbed.

Grant of this licence would render sleep impossible before 2am (0200) contrary to the rights of local residents, including ourselves.

Protection of children from harm

For the same reasons as above, grant of this licence would result in substantial sleep deprivation of children resident in this mixed area.

Prevention of crime and disorder

This area is already subject to considerable antisocial behaviour and fighting as a result of late night drinking, even if not all is reported to the police. Grant of this licence would further exacerbate this already significant problem.

Yours faithfully

Regards