

PLYMOUTH CITY COUNCIL

Subject: Plymstock Inn 88 Church Road, Plymstock, Plymouth
Review of Premises Licence

Committee: Licensing Sub Committee

Date: 1 August 2017

Cabinet Member: Councillor Riley

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

Author: Frederick Prout (Senior Licensing Officer)

Contact details: Tel: 01752 304792
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Ref: ERS/LIC/PREM

Key Decision: None

Part: 1

Purpose of the report:

An application has been received from Will Tomkins on behalf of Plymouth City Council, Environmental Health under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of the Plymstock Inn situated at 88 Church Road, Plymstock, Plymouth.

Corporate Plan 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](#)

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 - April 2017](#)

Background papers:

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

Sign off:

Fin		Leg	2862 7/ag/ 20.7. 17	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? No													

1.0 INTRODUCTION

1.1 On the 20 June 2017 the licensing department received an application from Will Tomkins – Plymouth City Council, Environmental Health under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of the Plymstock Inn situated at 88 Church Road, Plymstock, Plymouth.

1.2 Review application.

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

Environmental Health will say that since the premises licence holder took over the premises in October 2015 and complaints have been received from local residents regarding noise emanating from the Plymstock Inn. The noise is from amplified live music, patrons using the beer garden and when leaving the premises during closing periods.

A review of the premises licence took place on the 4th April 2017 where evidence was provided to the committee of noise emanating from the public house caused by regulated entertainment and patrons using the outside areas. Committee placed a number of additional conditions onto the premises licence.

In addition the new licence conditions Mr Wrights legal advisor stated at the licensing hearing that the licence holder would be putting in an application for a new designated premises supervisor (DPS) as the current DPS Mr Peter Wright was unable to give the role the time it required due to ill health. The legal advisor also stated that an employee called Jordan would be made responsible for all live entertainment at the venue.

Following the appeal period the new licence conditions became active on the premises licence on the 2nd May 2017.

Despite visits to Mr Wrights premises by officers working out of hours every weekend and the correspondence with him, the new conditions of the premises licence have not been met. Mr Wright has demonstrated that he is either unable or unwilling to meet the conditions placed on the licence by the licensing committee on the 4th April 2017. Mr Wright has not put a new DPS in place to manage the premises as stated to committee on the 4th April 2017. Following site visits to the premises Jordan has not been involved with the volume of the music and on each occasion Mr Wright has taken the lead role. Mr Wright is the licence holder of the premises and has demonstrated that he is the controlling mind behind it. Due to the inability of Mr Wright to meet the conditions on the premises licence this review application has been made.

In accordance with review proceedings at 12.00 midday on 20 June 2006 a licensing officer from Plymouth City Council attended the premises and spoke to Mr James Wright and requested the site notice be displayed at the premises.

At 12.32 pm hrs the same day a similar notice was displayed on the public notice board at the First Stop Shop, New George Street, Plymouth.

1.3 Licensable Activities.

These premises have the following licensable activities and timings.

Premises Open Hours Granted

	Time From	Time To
Monday to Wednesday	08:00	00:30
Thursday to Saturday	08:00	01:30
Sunday	08:00	00:30

Non Standard Timings:

Christmas Eve to 02:0hrs
New Year's Eve: 0800hrs to
0800hrs New Years Day

Activities - Times Granted

	Time From	Time To
C. Indoor sporting event		
Monday to Wednesday	08:00	00:00
Thursday to Saturday	08:00	01:00
Sunday	08:00	00:00

Non Standard Timings:

New Year's Eve: 0800hrs to
0800hrs New Years Day

E. Performance of live music (Indoors & Outdoors)

Monday to Wednesday	08:00	00:00
Thursday to Saturday	08:00	01:00
Sunday	08:00	00:00

Non Standard Timings:

Christmas Eve Until 0100hrs
New Year's Eve: 0800hrs to
0800hrs New Years Day

F. Playing of recorded music (Indoors & Outdoors)

Monday to Wednesday	08:00	00:00
Thursday to Saturday	08:00	01:00
Sunday	08:00	00:00

Non Standard Timings:

On Christmas Eve to
01:00hrs
New Year's Eve: 0800hrs to
0800hrs New Years Day

H. Entertainment of a similar description to that falling within E, F, or G (Indoors)

Monday to Wednesday	08:00	00:00
Thursday to Saturday	08:00	01:00
Sunday	08:00	00:00

Non Standard Timings:

On Christmas Eve to
01:00hrs
New Year's Eve: 0800hrs to

0800hrs New Years Day

I. Provision of facilities for making music (Indoors)

Monday to Wednesday	08:00	00:00
Thursday to Saturday	08:00	01:00
Sunday	08:00	00:00

Non Standard Timings:

Christmas Eve Until 0100hrs
New Year's Eve: 0800hrs to
0800hrs New Years Day

K. Provision of facilities for entertainment of a similar description to that falling within I or J (Indoors)

Monday to Wednesday	08:00	00:00
Thursday to Saturday	08:00	01:00
Sunday	08:00	00:00

Non Standard Timings:

On Christmas Eve to
01:00hrs
New Year's Eve: 0800hrs to
0800hrs New Years Day

L. Late night refreshment (Indoors)

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

Non Standard Timings:

Christmas Eve to 01:00hrs
New Year's Eve: 0800hrs to
0800hrs New Years Day

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

Monday to Wednesday	08:00	00:00
Thursday to Saturday	08:00	01:00
Sunday	08:00	00:00

Non Standard Timings:

Christmas Eve to 01:30hrs
New Year's Eve: 0800hrs to
0800hrs New Years Day

I.4 Conditions attached to the licence (Appendix I)

2.0 RESPONSIBLE AUTHORITIES

- 2.1 *Environmental Health have made further representations (Appendix 2)*
- 2.2 *Devon & Cornwall Police – 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 – no representations.*
- 2.9 *Licensing Authority – no representations*

3.0 OTHER PARTIES

No representations.

4.0 CONSIDERATIONS

- 4.1 In making its decision the Committee is also obliged to have regard to the application and any relevant representations, take any such steps if any as it considers appropriate for the promotion of the licensing objectives, which are:
 - the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.

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

The guidance issued under section 182 of the Licensing Act 2003 with the following paragraph's relevant to this application: Paragraph 11.1 – 11.11, 11.16 – 11.23

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), Public Nuisance (Page 17 – 19), Licensing Conditions (page 20) and Review of premises licence (Page 22-23)

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

- 4.2 The steps referred to above are :
 - (a) to modify the conditions of the licence (which includes adding new conditions, any alteration or omission of an existing condition);
 - (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;

Members are made aware that any existing conditions relating to live or recorded music which are already on the licence are suspended between the hours of 8am and 11pm due to amendments made to the Licensing Act 2003. However on a review of a premises licence, section 177A(3) of the Act permits a licensing authority to lift that suspension. Also section 177A(4) of the Licensing Act 2003 would allow Members to add a condition to the licence relating to music as if it were regulated entertainment. If members were to do this then any condition would need to include a statement that section 177A of the Act does not apply to that condition.

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

ANNEX 1 - MANDATORY CONDITIONS (PREMISES LICENCE - ON & OFF SALES)**All supplies of alcohol**

1. No supply of alcohol may be made under this Premises Licence-

(a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or

(b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

2. Every supply of alcohol under the Premises Licence must be made or authorised by a Person who holds a Personal Licence.

Irresponsible drinks promotions

1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

1. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

3. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

Age verification policy

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

- (a) a holographic mark, or
- (b) an ultraviolet feature.

Alcoholic drink measures

1. The responsible person must ensure that-

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

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Permitted price

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

2. For the purposes of this condition -

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

(b) “permitted price” is the price found by applying the formula $P = D + (D \times V)$ where:

- (i) P is the permitted price
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of Value Added Tax chargeable in relation to the alcohol as if the Value Added Tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to a premises licence -

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

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

(e) “Value Added Tax” means Value Added Tax charged in accordance with the Value Added Tax Act 1994.

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

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

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

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

A Supply of alcohol

Any existing conditions attached to existing justices licence

The authorised hours for the sale of alcohol do not prohibit:

1. consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
2. the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
3. the sale of alcohol to a trader or club for the purposes of the trade or club;
4. 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;
5. the taking of alcohol from the premises by a person residing there; or
6. 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
7. 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 Conditions that have been agreed with The Environmental Health Authority

1. After 24.00 hours doors and windows will be kept shut during entertainment
2. Staff will check after 24.00 hours during the entertainment, that all windows and doors are shut
3. Between 24.00hours and close
Noise emanating from the premises will not be distinguishable above back ground levels one metre from the façade of the nearest residential property or in the adjoining residential property

4. A senior member of staff (manager) will assess the impact of any noisy activities on neighbouring residential premises at the start of the entertainment and periodically throughout the entertainment
5. Management will control the sound levels of the music/entertainment

C Steps that have been taken to promote the four Licensing Objectives

(a) GENERAL

1. Staff banned from drinking on duty
2. Records maintained of any material incidents within or in immediate vicinity of premises
3. Drugs warning notices on display
4. Zero tolerance to drugs use and dealing
5. Policy of banning customers for misbehaviour within or in vicinity of premises where deemed necessary and appropriate
6. Availability of soft drinks, non-alcoholic and/or low alcohol beverages at all times
7. Food available

(b) THE PREVENTION OF CRIME AND DISORDER

1. Specific staff training and supervision in assessment of customer consumption and condition
2. CCTV System covering all internal area
3. No drinks hoarding
4. No cheap alcoholic drinks promotions, cut price drinks, 'package drinks'
5. Pro-active policy against "binge" drinking
6. Zero tolerance to offensive conduct
7. Regular glass collection

(c) PUBLIC SAFETY

1. Air-extractor provided
2. Regular dedicated cleaning of premises

(d) THE PREVENTION OF PUBLIC NUISANCE

1. Advisory notices re noise on leaving premises
2. Freephone or similar taxi facility
3. Nominated staff to deal with complaints from neighbours
4. CCTV and/or regular monitoring of external areas of premises at night

(e) PROTECTION OF CHILDREN FROM HARM

1. Warning notices in place in relation to under age drinking
2. Full training for staff in law specifically relating to minors and alcohol and specific photo i/d proof of age requirements

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

Licensing Sub-Committee of 04 April 2017

Use of the outside seating area

- After 21.00hrs no drinks are to be taken outside to the outside area and no consumption of drinks to occur after 21.30hrs. The area to be closed to patrons at 22.00hrs
- A sign is to be placed in the outside rear area specifying that no drinks are to be taken into this area after 21.00hrs. The area to be closed to patrons at 22.00hrs.
- After 21.30hrs noise levels in outside areas are to be monitored and controlled to minimise any potential impact on local residents.

The following conditions are applied in accordance with Section 177A(4) of the Licensing Act 2003

Noise Nuisance

- The performance of regulated entertainment will cease by 23.00hrs.
- No regulated entertainment will take place until a noise limiting device (the specification and design to be agreed with Environmental Health Service) is fitted so that all regulated, live, karaoke and recorded music (including the Juke Box) is channelled through the device(s). The maximum noise levels be set by agreement with the Environmental Health Service and will be reviewed from time to time as appropriate. The noise limiting device must be fully functional and in proper working order at all times during performance of live and recorded music. If the noise limiting device breaks down the council's Environmental Health Service must be informed as soon as reasonably practicable and in any event within 24 hours of the device breaking down. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. No performance of live and recorded music shall proceed if the noise limiting device is not in proper working order.
- All doors and windows shall be kept shut during regulated entertainment.
- All doors and windows shall be maintained in good order and where appropriate acoustically sealed to minimise noise breakout
- Noise emanating from the premises must not be heard above background levels 1 metre from the facade of the nearest residential property.
- The performance of regulated entertainment will be limited to a maximum duration of three hours inclusive of any breaks.
- The performance of regulated entertainment will be limited to two sessions per week.
- The PLH shall nominate a senior member of staff as the person responsible for the management, supervision, compliance with licensing conditions and general control of regulated entertainment. This person will also be responsible for instructing performers on the restrictions and controls to be applied.
- The PLH or nominated person shall carry out observations in the residential streets surrounding the public house on at least 30 minute intervals whilst live music, karaoke or DJ's playing recorded music is taking place to establish whether there is a noise breakout from the premises. These checks must be documented.
- The PLH or nominated person shall ensure that suitable signage is positioned at exits to request the co-operation of patrons, in particular to make as little noise as possible when leaving the premises or any car-park. and asked to leave the vicinity quickly and quietly.
- The PLH or nominated person shall be available at all times during regulated entertainment and who is responsible for co-operating and liaising with any relevant responsible authority. A contact telephone number will be made available to local residents to contact the nominated person.

Dear Mr. Prout,

Following the change of ownership of the Plymstock Inn I no longer feel the review is necessary. Please find additional information for the review below.

As of the 13th July 2017 The Plymstock Inn has had a change of both DPS and Licence Holder and Mr James Wright has ceased any involvement with the business.

I have met with the new licence holder, Mr Chris Unwin, and discussed the new business model for the premises. The business will now be food led and there will not be regular entertainment in the form of live bands taking place. During our meeting the new licence holder has also been made aware of the conditions added by committee on the 4th April 2017 and has committed to work with the local authority to ensure that these are adhered to. As of the 19th July 2017 the business remains closed due to ongoing refurbishment.

I have agreed to meet again with the new licence holder/DPS and with the pub manager once he is ready to open. I feel that if the conditions previously placed on the premises licence by committee on the 4th April 2017 are adhered to then the business should not have an impact on the licencing objective for the prevention of public nuisance. I am satisfied that Mr James Wright has left the business and with the positive attitude of the new management to work with the local authority. The new licence holder has assured me that that the conditions added by committee on the 4th April will be followed. As a result I no longer feel the hearing is necessary.

If you need any further information please do not hesitate to contact me.

Regards

Will Tomkins

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