

Licensing Sub Committee

Tuesday 9 May 2017

PRESENT:

Councillor Dr Mahony, in the Chair.
Councillor Rennie, Vice Chair.
Councillors Cook (4th member) and Parker-Delaz-Ajete.

Also in attendance: Ann Gillbanks (Senior Lawyer), Marie Price (Licensing Officer), Will Tomkins (Environmental Health Officer) and Helen Rickman (Democratic Support Officer).

The meeting started at 10.00 am and finished at 12.10 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.

6. **Appointment of Chair and Vice-Chair**

Agreed that Councillor Dr Mahony was appointed as Chair and Councillor Rennie was appointed as Vice Chair.

7. **Declarations of Interest**

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

8. **Chair's Urgent Business**

There were no items of Chair's Urgent Business.

9. **Application for Grant of Premises Licence - Ocean Grill, 135 Hoe Road, Plymouth, PL1 3DE**

The committee:

- (a) considered report from the Office of the Director for Public Health;
- (b) heard from the applicant and the applicant's representative (summarised as follows):
 - the application is for the grant of a premises licence to the Ocean Grill café bar/restaurant venue, for entertainment and sale of alcohol with 2 pre-booked private functions a week closing at 02:00, the rest of the time the premises would close at Midnight as usual;
 - the premises is to operate on three levels containing 5 rooms 2 of which were to be used to hold functions;

- the applicant considered the main concerns of noise would be addressed by entertainment/private functions using the function room or gallery only where noise would be contained by closed windows and the stone wall structure;
 - the premises would be operated as a food led café bar and it was never intended to operate as a night club; the application is to extend the business and to improve the premises and provide private functions in 2 of the rooms;
 - have agreed conditions with Environmental Health and Police Officers and have proposed conditions in the applicants' operating schedule which is considered will address all of the concerns expressed by the residents in relation to the control of noise from the premises.
- c. considered the representations (written and presented at committee) from the Responsible Authorities and the other parties which are summarised under the following licensing objectives:

Prevention of public nuisance

Environmental Health officer:

- the venue has traded as El Café since 2013 with a premises licence allowing regulated entertainment of live music up to 23:00 only indoors and recorded music outside up to Midnight. Three incidents of noise complaints, one in 2015 and two in 2016 where no formal action was taken but monitoring continuing;
- two applications were originally submitted for same site and it was difficult to establish what type of premises was to operate in the extended business;
- the application included regulated entertainment of recorded music between 11:00 to 01:30;
- the plan of the licensed area includes some outside space where disturbance may be created by patrons. Environmental Health concerns the site may cause noise problems if operated 7 days a week with music until 01:30 with concern it would trade as a nightclub;
- the inclusion of a function room where a higher volume of patrons are likely to leave the establishment at the same time may create disturbance;
- there are also operational activities carried out within the open hours between 11:00 & 02:00 that may cause disturbance – therefore conditions recommended;
- have subsequently met with the applicant's representative and agreed

conditions to control the noise;

- had further discussions with the applicant and their representative at the committee to agree final set of conditions

Police officer:

- found the application confusing as to whether it was a café, bar or nightclub;
- had a meeting with the applicant and Licensing and Environmental officer to confirm use of premises and agreed conditions based upon the venue being operated as a café bar/bistro restaurant with the ability to cater for special events;
- had further discussions with the applicant and their representative at the committee meeting to agreed final set of conditions;
- believed the conditions proposed are necessary and appropriate conditions designed to ensure that the premises operate in an efficient manner within the confines of the Licensing Act 2003;

- d. considered written and oral representations from other parties which are summarised under the following objectives:

Prevention of Crime and disorder

- the granting of the licence is likely to increase drunk and disorderly behaviour, noise, broken glass;
- late night drinking will lead to more crime and disorder West Hoe becoming known for its drinking, drugs etc., cars vandalised houses broken in to feed drugs;

The Committee considered these representations relevant but there are also other establishments in the area and no evidence was presented linking this premises to the behaviour described. The Committee also considered that the conditions put forward by the applicant and those agreed with the Responsible Authorities should alleviate any problem;

Public Safety

- serving of drink until the small hours of the morning in a venue situated on a very steep foreshore is potentially fraught with danger and a definite nuisance for residents;

The Committee considered this was not relevant as there no evidence of the likelihood of this occurring;

Prevention of Public Nuisance

- concerned that the premises would trade as a nightclub and did not know there was an expectation that it would be a café and food led operation;
- function rooms are being extended and plans show opening large doors so concerns are that these doors will be left open when the weather is warm allowing noise to escape;
- disappointed that the applicant had not consulted residents as a lot of residents were also patrons of the establishment;
- residents of the Hoe are aware of events that are held on the Hoe but these finish at 23:30 so are concerned that granting this licence will set a precedent for late night establishments in what is a residential area;
- concerns for noise pollution as noise travels easily across the open water especially on still nights, noise has generally been controlled from this venue but has been heard on two occasions;
- residents on the Hoe have already experienced noise disturbance from these premises. Granting this licence is very likely to make this even worse;
- residents are already frequently disturbed at night by people under the influence of alcohol;
- possibility for more pedestrians and motor traffic from the premises and with the late night opening hours revellers will have more time to consume alcohol causing them to be louder, to “slam and toot” departures from parking outside residents’ premises;

The Committee consider these representations relevant but with the explanation provided on the lay out of the premises and the conditions agreed between the applicant and the Responsible Authorities agree that the conditions should alleviate these concerns

Protection of Children from Harm

- no representations under this heading

Representations not linked to the licensing objectives

- the area of Hoe and West Hoe is mainly a residential area for over 100 years. The area is known worldwide and is a place that visitors from this county and abroad travel to see. This business is not considering the residential and family nature of the area;

- parking is a problem for residents especially in holiday periods as in the small area from the Dome to the Waterfront there will be five restaurants, four of which only have on street parking;

These do not relate to the licensing objectives so the Committee have not considered them when making their decision.

In response to Members questions the following information was provided about the premises:

- the applicant's representative explained that the existing roof terrace was being replaced with a new permanent pavilion. Adjacent to that on the derelict land, a new two story building was being built. At the same level as the existing tent was to be a new large pavilion. There was provision for a roof terrace at pavement level on the new large pavilion. Confirmed that although planning application included French doors in the pavilion, these had been replaced with sealed windows and one access door so noise would be contained;
- all built accommodation was to be fully enclosed;
- the seated capacity of the Gallery was a maximum of 60;
- the smaller pavilion would be retained with the café, the larger pavilion for private function hire with maximum capacity between 60 or 80;

The Committee have considered all of the representations presented and have noted concerns that the residents have expressed with regard to noise and noise travel from open areas. Members consider this is relevant and will therefore impose a further additional condition to address this concern.

The committee consider that this additional condition, in addition to the conditions agreed between the applicant and the Responsible Authorities are necessary and appropriate conditions to address the licensing objectives under the Licensing Act 2003 and will provide the controls required for the operation of these premises and have therefore **AGREED TO GRANT** the application subject to:

- A. the mandatory conditions within the Licensing Act 2003 and;
- B. the conditions contained in the applicant's operating schedule and;
- C. the conditions agreed with the Environmental Health and Police officers and;
- D. the following additional condition:

- “All outside areas will be closed and cleared of customers by 23:30 hours. Adequate notices will be displayed to inform patrons of this requirement. If patrons are to be allowed to use the outside area for smoking after 23:30 hours then the following controls will be in place:
 - (i) the area shall be adequately monitored to ensure that patrons do not cause a nuisance;
 - (ii) patrons shall not be allowed to take drinks to the smoking area;
 - (iii) the area shall be provided with suitable ashtrays/bins;
 - (iv) the area shall be regularly swept to remove cigarette ends”;
- (conditions C and D set out in full in annex I to this decision)

10. **Exempt Business**

Agreed that under Section 100A(4) of the Local Government Act 1972, to exclude the press and public from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1 and 3 of Part 1 Schedule 12a of the Act, as amended by the Freedom of Information Act 2000.

11. **Application for Grant of Premises Licence - Ocean Grill, 135 Hoe Road, Plymouth, PL1 3DE (E1&E3)**

Please refer to minute 9 above.

OCEAN GRILL – APPENDIX ONE CONDITONS:**Environmental Health Conditions**

1. The premises will cease trading at midnight unless there is a pre-booked private function when the premises may remain open until 02:00 hours in the function room or Gallery only. Private functions using the function room or Gallery or both are limited to twice per week.
2. Regulated entertainment will be controlled to a level that ensures it is not audible at the façade of nearby residential properties. The Premises Licence Holder or nominated person will assess the noise impact on neighbouring premises at the start of regulated entertainment and periodically throughout regular entertainment and take action to reduce noise levels if it can be heard at the façade of residential properties. A record of the observations made shall be kept in a log for that purpose, such a log shall be completed immediately after the observation detailing the time, location and duration of the observation, the level of noise break out and any action taken to reduce noise breakout.
3. Adequate notices will be displayed to inform patrons to minimise noise when using outside areas, and the area shall be adequately monitored to ensure that patrons do not cause a nuisance.
4. When hosting private functions where a higher volume of person are likely to leave the establishment at the same time the Premises Licence Holder or nominated person shall ensure that exits are manned at closing time to ensure that patrons leave the area quickly and as quietly as possible
5. The handling of beer kegs, bottles and other similar items will not take place after 22:00 hours, including the discarding of empty bottles, outside buildings.
6. All regulated entertainment will only be carried out in enclosed areas as identified on the plan attached to the licence.

General

1. All staff shall be suitably trained for their job function in the operating standards for the premises. The training shall be under constant review.
2. All staff will be fully trained to perform their role. They will also be trained in the contents of the premises licence including times of operation, licensable activities and all conditions.
3. The training will be recorded in documentary form that will be available for Inspection on at the time of a request by a member of any relevant authority. The records will be retained for at least 12months.
4. The premises shall primarily operate as a cafe and food led operation.

Prevention of Crime and Disorder

1. An incident book shall be maintained to record any activity of a violent, criminal or anti social nature. 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.
2. The incident book will be available for inspection at the time of request by a member of any relevant authority. The records will be retained for at least 12months.
3. 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.
4. No customers carrying open or sealed bottles cans or other receptacles containing alcoholic liquor shall be admitted to the premises at any time that the premises are open to the public.
5. No Bottles or glasses will be taken from the premises by customers
6. The Licence holder and Designated Premises Supervisor will ensure that any outside area included in the licence 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.

CCTV

1. The Premises Licence Holder will ensure that a CCTV system which is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document regarding installation of CCTV.
2. The CCTV will cover all areas of the premises to which the public have access including any outside areas
3. Images will be retained for a minimum of 31 days.
4. The system will be capable of downloading images to a recognizable viewable format.
5. At all times the premises are open for business a member of staff will be present who is capable of operating the system and downloading images at the request of police or a member of a responsible authority.
6. The CCTV system will be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises.

CONDITION IMPOSED BY THE COMMITTEE:

All outside areas will be closed and cleared of customers by 23:30 hours. Adequate notices will be displayed to inform patrons of this requirement. If patrons are to be allowed to use the outside area for smoking after 23:30 hours then the following controls will be in place:

- (i) The area shall be adequately monitored to ensure that patrons do not cause a nuisance
- (ii) Patrons shall not be allowed to take drinks to the smoking area
- (iii) The area shall be provided with suitable ashtrays/bins
- (iv) The area shall be regularly swept to remove cigarette ends

This page is intentionally left blank