

## PLYMOUTH CITY COUNCIL

**Subject:** **Smileys Grocers – 95 Mayflower Street**  
Grant of Premises Licence

**Committee:** Licensing Sub Committee

**Date:** 13 February 2018

**Cabinet Member:** Councillor John Riley

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

**Author:** Bev Gregory (Licensing Officer)

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**Ref:** ERS/LIC/PREM

**Key Decision:** No

**Part:** I

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

An application has been received from Mr Micheal Ajayi in respect of Smileys Grocers, 95 Mayflower Street, Plymouth, PL1 1SD for the Grant of a premises licence under Section 17 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 - April 2017](#)

**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	2981 8/ag/ 25.1. 18	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 13<sup>th</sup> November 2017 the licensing department received an application from Mr Micheal Ajayi for the Grant of a Premises Licence under Section 17 of the Licensing Act 2003 in respect of Smileys Grocers situated at 95 Mayflower Street, Plymouth, PL1 1SD.

1.2 Applications for the grant of a premises licences shall be advertised in accordance with section 17(5)(a) Licensing Act 2003. On the 17<sup>th</sup> November an officer checked the premises and no site notice was displayed. On the 20<sup>th</sup> November an officer attended the shop and spoke to applicant supplying him with a site notice along with guidance notes to the advertising requirements. On the 21<sup>st</sup> December 2017 at the end of the representation period an officer contacted the applicant and established the application had not been advertised in any local paper. The application time was therefore restarted.

### 1.3 Grant application

Supply of alcohol off the premises

#### 1.3 Licensable Activities.

The following licensable activities and timings have been requested:

<p><b><u>(j) Supply of Alcohol for consumption OFF the premises.</u></b></p>
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<p>Monday to Friday 09:00am to 11.00pm.</p>
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<p>Saturday 11.00am to 11.00pm</p>
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<p>Sunday Midday to 11.00pm</p>
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<p><b><u>(l) Hours Premises are Open to the Public</u></b></p>
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<p>Monday to Friday 09:00am to 11.00pm.</p>
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<p>Saturday 11.00am to 11.00pm</p>
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<p>Sunday Midday to 11.00pm</p>
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1.4 The applicant has submitted an Operating Schedule (Appendix 1).

1.5 The applicant has submitted an Internal Premises Plan (Appendix 2)

1.6 Representations have been received in respect of this application.

#### 1.7 Cumulative Impact Policy

This application does not fall within an area to which the Cumulative Impact Policy applies.

## 2.0 RESPONSIBLE AUTHORITIES

2.1 *Devon & Cornwall Police* – Representations (Appendix 3).

2.2 *Health Authority (ODPH)* – Representation (Appendix 4).

2.3 *Environmental Health* – no representations

2.4 *Devon & Somerset Fire & Rescue Service* – no representations.

2.5 *Trading Standards* – no representations

2.6 *Planning Officer* - no representations.

2.7 *Child Protection* – no representations

2.8 *Health & Safety Executive* – no representations.

2.9 *Licensing Authority* – no representations.

### **3.0 OTHER PARTIES**

No representations have been received

### **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 paragraphs relevant to this application: 1.2 – 1.5, 1.16 – 1.17, 2.1, 2.3 2.15 – 2.16, 8.13, 9.3, 9.26 – 9.30, 9.42 - 9.44, 10.8 – 10.9, 10.10 and 10.13 – 10.15
- The Council's own Licensing Policy with the following headed paragraphs being relevant to this application: Licensing Hours (Page 11), Late Night Refreshment (Page 12)), Responsible Retailing for Off-Sales (Page 15) Location and Trading restrictions (page 15), Public Nuisance (Page 17), Licensing conditions (page 20), Use of Petitions (Page23-24),
- The representations (including supporting information) presented by all the parties.

The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

1. Grant the licence as asked.
2. Modify the conditions of the licence, by altering or omitting or adding to them.
3. Reject the whole or part of the application.
4. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities.

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.

TO PROMOTE ALL FOUR LICENSING OBJECTIVES WE WILL KEEP THE FOLLOWINGS:

- 1 Strong management controls and effective training of all staff so that they are aware of the premises license and the requirements to meet the four licensing objectives with particular attention to:
- 2 There will be no selling of alcohol to underage people
- 3 Zero tolerance to drunkenness and disorderly behavior on the premises
- 4 Vigilance in preventing the use and sale of illegal drugs in the premises
- 5 No violent and anti-social behavior
- 6 No any harm to children

- Operating Schedule providing the hours of operation and licensable activities during those hours.  
I ( the designated premises supervisor) confirmed it is obligated to be in day-to-day control of the premises, to provide good training for staff on the Licensing Act (Training Record), to make or authorize each sale.  
There will be clear "Challenge 25" information to prevent the supply of alcohol to under-age drinkers.  
CCTV system installed with recording option available

As a licensed premises we are aware that it is essential to carry out our functions or operate businesses with a purpose of promoting these objectives. We promise to support these objectives through their operating schedules and other measures (including staff training and qualifications, policies, and strategic partnerships with other agencies).

b) The prevention of crime and disorder

FACTORS THAT IMPACT CRIME AND DISORDER INVOLVES : UNDERAGE DRINKING, VIOLENT BEHAVIOUR, ANTI-SOCIAL BEHAVIOUR, PUBLIC DRUNKENNESS.

EXAMPLES OF CONTROL MEASURES ARE AS FOLLOWS:

PROVISION OF EFFECTIVE CCTV  
ACCEPTANCE OF ACCREDITED 'PROOF OF AGE' / E.G: DRIVING LICENCES  
TRAINING AND SUPERVISION OF STAFF  
EFFECTIVE RESPONSIBLE MANAGEMENT OF PREMISES

c) Public safety

EXAMPLES OF FACTORS THAT IMPACT ON PUBLIC SAFETY ARE: THE OCCUPANCY CAPACITY OF THE PREMISES, THE AGE DESIGN LAYOUT OF THE PREMISES, THE HOURS OF OPERATION AND CUSTOMER PROFILE SUCH AS AGE AND DISABILITY

EXAMPLE OF CONTROL MEASURES ARE:

EFFECTIVE AND REPOSIBLE MANAGEMENT OF PREMISES  
REGULAR RESTING OF OF PROCEDURE APPLIANCES  
APPROPRATE INSTRUCTION, TRAINING AND SUPERVISION OF THOSE EMPLOYED  
SUITABLE AND SUFFICIENT RISK ASSESSMENTS  
ADOPTION OF BEST PRACTICES AND SO ON

d) The prevention of public nuisance

SOME OF THE FACTORS THAT IMPACT THE LIKELIHOOD OF PUBLIC NUISANCE INVOLVES: THE LOCATION OF PREMISES, THE HOURS OF OPERATION, THE DESIGN AND LAYOUT OF PREMISES, THE HOURS OF OPERATION AND THE NATURE OF ACTIVITY TO BE PROVIDED.

EXAMPLES OF CONTROL MEASURES MEASURES:

RESPONSIBLE MANAGEMENT OF PREMISES  
APPROPRIATE INSTRUCTION, TRAINING AND SUPERVISION OF PREMISES  
PEOPLES MANAGEMENT  
COLLECTION AND DISPOSAL OF LITER  
AND EFFECTIVE VENTILATION SYSTEM

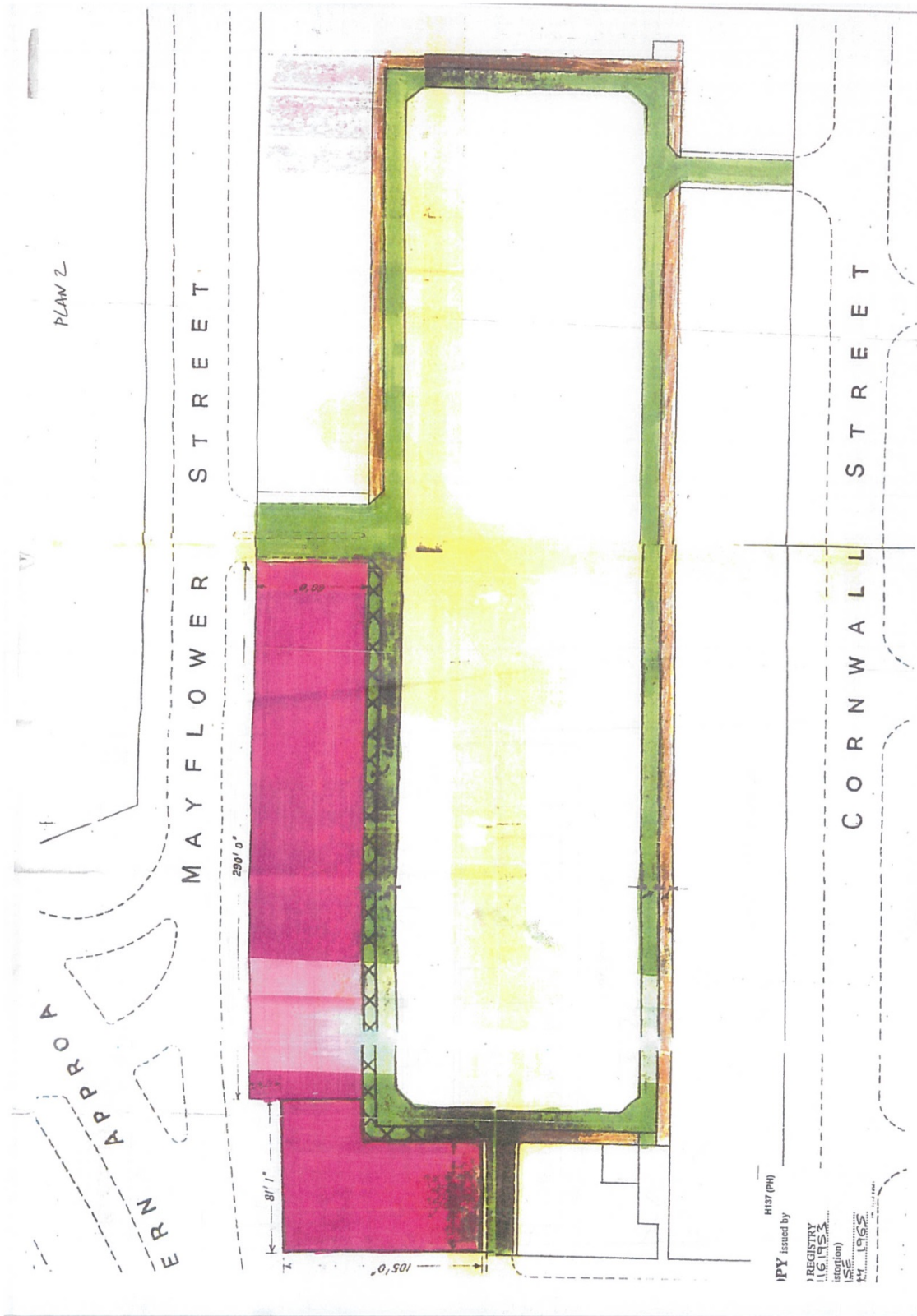
e) The protection of children from harm

FACTORS THAT IMPACT THE PROTECTION OF CHILDREN FROM HARM ARE :

BE EXPOSED TO SPECIAL HAZARDS SUCH AS FALLS FROM A HEIGHT  
BEEN EXPOSED TO ACTIVITIES OF AN ADULT OR SEXUAL NATURE  
PURCHASE, ACQUIRE OR CONSUME ALCOHOL  
BY BEEN EXPOSED TO GAMBLING AND SO ON

SOME OF THE EXAMPLES OF CONROL MEASURES ARE:

EFFECTIVE AND RESPONSIBLE MANAGEMENT OF PREMISES  
IMPOSTION OF REQUIREMENT FOR CHILDREN TO BE ACCOMPANIED BY AN ADULT  
APPROPRIATE INSTRUCTION, TRAINING AND SUPERVISION OF THOSE EMPLOYED  
ADOPTION OF BEST PRACTICES OF GUIDANCE  
ACCEPTANCE OF ACCREDITED PROOF OF AGE CARDS E.G 'VALIDATED UK CARD' WHENEVER ANYONE UNDER THE AGE OF 25 IS ATTEMPTING TO BUY ALCHOL



## DEVON AND CORNWALL CONSTABULARY

From: Mr D.G. McIndoe  
Charles Cross Police Station  
Hampton Street  
Plymouth

To: Plymouth City Licensing Committee  
Council House  
Armada Way  
Plymouth

Ref.:	Your Ref.:	Date: 16 <sup>th</sup> January 2018
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Sir,

**Re - Application for premises licence known as Smileys, 95 Mayflower Street, Plymouth, PL1 1SD.**

The Devon and Cornwall Police Received the application on 14<sup>th</sup> November 2017 from Mr Michael Ajayi. The application is in respect of a licence to retail the sale of alcohol between the hours of 0900 and 2300hrs.

On 5<sup>th</sup> December 2017 Mr Ajayi was informed that the police would make representations requesting the application be refused as it was felt if granted the operation of the premises would have a negative effect on the licensing objectives of the Prevention of Crime and Disorder, Protection of Children from Harm and Public Safety

The premises are situated in Mayflower Street Plymouth adjacent to the Stonehouse area

The premises are near the following operations

Congress Hall Armada Way which provides various activities and support groups Band practice, open door café, bereavement support, Drug and Alcohol support, Bible study, adult support group, Christian teaching fun and games for children aged 4 – 13.

Plymouth Coach Station –The previous coach station namely Bretonside was a hot spot of activity for alcohol related anti- social behaviour

Pilgrim Academy Oxford Street Stonehouse – this school provides breakfast and afternoon clubs

Royal British Legion Pop in Centre Armada way – these premises offer support for ex-servicemen including advice for alcohol and drug addiction

Methodist Central Hall Eastlake Street – this organisation provides youth clubs for young people aged 11 to 18 years old.

The relevance of these premises is provided by the Plymouth City Council Statement of Licencing policy ( page 13 ) which states

**Responsible Retailing for Off-Sales**

The Licensing Authority wishes to minimise the negative impact on the licensing objectives created by irresponsible consumption of alcohol from retail alcohol sales.

Many parts of the city have Designated Public Places Order in place to help address problems of drinking alcohol in public areas. Street drinking can be a major source of anti-social behaviour, often involving young persons, and it can lead to crime or the fear of crime. Local research has established that many people now drink at home before heading out for the evening, which contributes significantly to the problems of drunken and disorderly behaviour. Businesses involved in the city's evening and night time economy are left to deal with this issue.

Page 15 of the policy states



## **Location and Trading Restrictions**

The Licensing Authority may not approve applications for off sales in the following locations:

Near to alcohol addiction recovery activities or buildings.

In areas where street drinking affects any of the licensing objectives.

The area in which the premises are located are subject of unacceptable levels of street drinking, alcohol related crime and disorder and street begging.

Between 1<sup>st</sup> November and 14<sup>th</sup> November 2017 129 incidents of begging were dealt with by the Plymouth PARC Rangers.

In the same period they dealt with 69 alcohol related incidents in the city centre.

The police have also noted an increase in crime and disorder involving a large group of juveniles who are reportedly stealing alcohol from both shops and street drinkers or are obtaining alcohol from existing outlets by proxy purchase.

In response to this the neighbourhood officers have instigated Operation Grey Wild specifically to deal with the alcohol related Anti -Social behaviour and Crime within the city centre.

The police have also conducted a survey within the city centre premises to obtain their views on the effect the operation of these premises will have.

General comments indicated that the issue of this premises licence will have a negative effect and attract further incidents of alcohol related Crime and Anti – Social Behaviour, several expressed concern regarding the proximity of established outlets and the fear of street drinkers congregating in the car park coach station area. There were comments regarding public health issues arising if this happens due to urination and defecation in the area, indeed some people feel a problem already exists in this area.

A further snap shot of street drinking incidents between 1<sup>st</sup> and 14<sup>th</sup> December 2017 show the problem persists with 40 people being spoken to regarding alcohol related incidents by PARC Rangers.

A check of police systems show the following offences have been recorded as alcohol related between the 1<sup>st</sup> November 2017 and 16<sup>th</sup> January 2018.

The figures relate to Mayflower Street, Market Avenue, Market Street, Cornwall Street, New George Street, Royal Parade, Derry's Cross and Raleigh Street.

- 28 offences of Assault
- 3 offences of Grievous Bodily Harm
- 7 Offences of Criminal damage
- 1 offence of Indecent Exposure
- 2 offences of Racially aggravated public order
- 1 offence of sexual assault on a female
- 11 offences of theft from shops
- 1 offences of theft from persons
- 6 offences of Threatening Behaviour

The figures also reveal that about 65% of these offences occurred between 0900hrs and 2300hrs.

The police believe the grant of this licence will have a negative effect on the licensing objectives listed at the head of this report.

The facts presented show the local business community and members of the public who use the city centre facilities are already subject of incidents of alcohol related crime and

disorder. It is felt the issue of this licence will inevitably add to existing problems and increase the number of reports.

Therefore the Devon and Cornwall Police invite you to refuse this application

**D McIndoe**

Alcohol Licensing Officer 55474

**Application for premises licence known as Smilyes, 95 Mayflower Street, Plymouth, PL1 1SD.**

1. This objection to the application for premises licence Smilyes, 95 Mayflower Street, Plymouth, PL1 1SD, is made on the grounds of the following licensing objectives;
  1. The Prevention of Crime and Disorder and
  2. Public Safety
2. The application for premise licence relates to a premise in the Stonehouse neighbourhood. The premise is on the border of an area that is subject to Plymouth City Council's Public Spaces Protection Order (PSPO). This PSPO was put in place in October 2017 to address a number of issues that were identified as having a negative impact on the neighbourhood. These include street drinking and Anti-Social Behaviour (ASB) due to drunkenness as evidenced by the following incidents recorded in the Stonehouse neighbourhood in the 6 months between April-October 2016
  - 234 reported incidents directly linked to alcohol
  - 56 crimes recorded directly related to alcohol
  - 268 reported incidents of anti-social behaviour
  - 340 Public safety reports – concern, collapse, injury, trapped
3. Recent intelligence from Devon and Cornwall Police identifies significant issues with both alcohol related crime and street drinking in beat code EC1E area where this premise is located. Between 29<sup>th</sup> August and 19<sup>th</sup> December 2017 there were 98 alcohol related offences recorded between the hours of 08.00 and 23.00 hours in this area. These include criminal damage, common assault and multiple offences of theft from a shop.
4. Furthermore between 1<sup>st</sup> and 14<sup>th</sup> December 2017 there were 69 incidents of street drinking recorded with individuals and groups of up to 9 people in the beat code EC1E area.
5. The proposed premise is also situated on the border of two cumulative impact policy areas (North Hill and Union Street, including Derry's Cross) that are in place to minimise the negative impact on the licensing objectives created by irresponsible consumption of alcohol from retail alcohol sales.
6. The premise is in very near proximity to a number of high density student accommodations. It is also alongside the new coach station and satellite tourist information centre that has been granted the first ever Safer Coach Station accreditation status.
7. The Plymouth Alcohol Harm Profile provides evidence of the level of alcohol related harm in the Stonehouse neighbourhood where this premises is situated.  
[https://www.plymouth.gov.uk/sites/default/files/Alcohol%20harm%20mapping%20Plymouth%20neighbourhood%20profiles%202017\\_0.pdf](https://www.plymouth.gov.uk/sites/default/files/Alcohol%20harm%20mapping%20Plymouth%20neighbourhood%20profiles%202017_0.pdf)

The alcohol harm profile shows;

- Mapping of on and off licensed premises in Plymouth shows a proliferation of premises in areas of deprivation. Stonehouse has more off-licensed premises than any other neighbourhood in the city.
  - There is a growing body of evidence indicating that the number of licensed premises in an area has a direct impact on levels of consumption and subsequent harm. Studies have shown clear relationships between density of outlets and levels of violence, traffic accidents and injuries. High outlet density has been directly linked to increased risky drinking and levels of violence.
  - Stonehouse is the most deprived neighbourhood in the city and has the lowest life expectancy of any neighbourhood in the city. There is good evidence that neighbourhoods with low socio-economic status have a greater susceptibility to the harmful effects of alcohol<sup>1</sup>. This is evidenced by the rate of alcohol related hospital admissions in Stonehouse which is the highest in the city and is double the rate seen in at least 10 other neighbourhoods in the city.
  - This correlation between licensed premises and higher rates of alcohol related hospital admissions appears to provide evidence of a link between outlet density and alcohol related health harms.
  - In Stonehouse the level of all alcohol related crime recorded in 2016/2017 was the second highest of any neighbourhood in the city.
  - During that time the level of violent crime and the number of domestic abuse offences with an alcohol classification in Stonehouse was the highest of any neighbourhood in the city.
8. Plymouth's Strategic Alcohol Plan 2013 - 2018 Promote Responsibility, Minimise Harm and the city's Thrive Plymouth Programme are concerned with reducing alcohol related harm and enabling and encouraging positive choices for better health. Whilst the current licensing regime does not have a specific health objective it is acknowledged that approaches to alcohol licensing provide an important framework for creating the conditions for good health and wellbeing. Agreeing this application will work directly against the objectives of the Strategic Alcohol Plan and Thrive Plymouth.

## Conclusion

9. The proposed application premise licence will increase the overall availability of alcohol in this neighbourhood where there is significant evidence of alcohol related crime, disorder and street drinking. This is likely to increase overall alcohol consumption and escalate levels of alcohol related crime and disorder in this area. It is also likely to have a negative impact on public safety and perceptions of safety.

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<sup>1</sup> Jones, L., Bates, J., McCoy, E. and Bellis, M. (2015). Relationship between alcohol-attributable disease and socioeconomic status, and the role of alcohol consumption in this relationship: a systematic review and meta-analysis. BMC Public Health 15.400.