

PLYMOUTH CITY COUNCIL

Subject: The Clarence, 31 Clarence Place Stonehouse Plymouth
Variation of Premises Licence

Committee: Licensing Sub Committee (Miscellaneous)

Date: 31 July 2018

Cabinet Member: Councillor Sally Bowie

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 VAR

Key Decision: No

Part: I

Purpose of the report:

An application has been received from Amy Magee in respect of The Clarence, 31 Clarence Place, Stonehouse, Plymouth for the Variation of a premises licence under Section 34 of the Licensing Act 2003.

Our Plan – A City to be proud of.

This report links to the delivery of the City and Council objectives and outcomes within the plan.

A Growing City: The Licensing Policy and system aims to provide a balance between the need to protect residents and to enable legitimate businesses to operate within a necessary and proportionate regulatory framework. This in turn makes a safer, more vibrant Plymouth to allow economic growth and opportunities for increased levels of employment.

A Caring Council: The Licensing Policy has put in place an appropriate framework to allow the effective control of alcohol supply and regulated entertainment to keep all members of society protected and feeling safe by focusing on prevention and early intervention. The licensing system 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 of the Licensing Act 2003 - April 2018](#)

Background papers:

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

Sign off:

Fin		Leg	SD/3 0825 /11.7 .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 06 June 2018 the licensing department received an application from Amy Magee for the Variation of a Premises Licence under Section 34 of the Licensing Act 2003 in respect of The Clarence situated at 31 Clarence Place, Stonehouse, Plymouth PL1 3JP

1.2 Details of variation

Current Licensable Activities	Variation Application
<p>(c) <u>Indoor Sporting Events</u></p> <p>Hours Monday – Saturday 8.00pm to midnight Sunday 8.00pm to 11.30pm</p>	<p>No change</p>
<p>(e) <u>Live Music</u></p>	<p><u>(Indoors)</u></p> <p>Hours Monday – Sunday 10.00am to 11.00pm</p> <p>Non Standard Timings. New Year Eve: from the end of permitted hours on New Year Eve to the start of permitted hours on the following day</p>
<p>(f) <u>Recorded Music</u></p>	<p><u>(Indoors)</u></p> <p>Hours Monday – Sunday 10.00am to 11.00pm</p> <p>Non Standard Timings. New Year Eve: from the end of permitted hours on New Year Eve to the start of permitted hours on the following day</p>
<p>(j) <u>Supply of Alcohol for consumption ON and OFF the premises.</u></p> <p>Hours Monday – Saturday 10.00am to midnight Sunday 12 midday to 11.30pm</p> <p>Non Standard Timings. New Year Eve: from the end of permitted hours on New Year Eve to the start of permitted hours on the following day</p>	<p>No change</p>
<p>(l) <u>Hours premises are open to the public</u></p> <p>Hours Monday – Saturday 10.00am to 00.30am Sunday 12 midday to midnight</p>	<p>No change</p>

<p>Non Standard Timings.</p> <p>New Year Eve: from the end of permitted hours on New Year Eve to the start of permitted hours on the following day</p>	
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1.3 Variation application

The nature of the proposed variation is to remove condition 26 in Annex 3 of existing licence added following a review hearing by the Licensing Authority on the 01 August 2017 under the licensing objective of the prevention of public nuisance. (Appendix 1)

To permit live and recorded music as detailed above

Retrospective permission is also sought to move the location of the front entrance. There have been no representations in relation to this part of the variation.

1.4 Representations have been received in respect of this application.

1.5 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* – no representations.
- 2.2 *Environmental Health* – has made representation relating to the prevention of public nuisance which following mediation has agreed additional conditions (Appendix 2).
- 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

One letter of representation has been received that is attached to this report (Appendix 3). Paragraph (6) of the representation refers to the premises being used for Karaoke without a licence being applied for. Having checked the licensing register the records show that 15 Temporary Event Notices have been granted for regulated entertainment since the 1 January 2018.

Further information has been requested from the other party with respect to the dates the problems referred to arose

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, 2.15 – 2.19, 9.3, 9.11- 9.12, 9.32 - 9.41 9.42 – 9.44 and 10.10,
- the Council's own Licensing Policy with the following headed paragraphs being relevant to this application: Prevention of Public Nuisance (Page 9); Public nuisance (Page 17); Licensing conditions (page 20) 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. Modify the conditions of 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.
2. Reject the whole or part of the application;

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 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**03/07/2017**

Application received for a summary review of the licence by Devon & Cornwall Police as they consider that the premises are associated with serious crime and serious disorder.

Review hearing 01 August 2017

Conditions added from Review:-

Prevention of Crime and Disorder

1. All staff shall 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.
2. Training shall be recorded in documentary form and those records 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 12 months.
3. 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. The incident book shall be available for inspection at all reasonable times by an authorised officer of the relevant responsible authority. The records will be retained for at least 12 months.
4. 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. Training shall be recorded in documentary form and those records 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 12 months.
5. 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) regarding installation of CCTV is provided at the premises.
6. 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.
7. The CCTV system shall cover all areas of the premises to which the public have access including any outside areas.
8. Images shall be retained for a minimum of 28 days.
9. The CCTV system shall be capable of downloading images to a recognizable viewable format.
10. The CCTV system shall be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises.
11. If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the Designated Premises Supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police by the next working day. This information shall be contemporaneously recorded in an incident report register and shall include the time, date and means this was done and to

whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.

12. The CCTV system covering any dedicated smoking area shall be fully operational and regularly monitored.

13. 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.

14. No beverage purchased inside the premises may be consumed in the premises outside area.

15. 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.

16. The Premises Licence Holder and/or Designated Premises Supervisor shall ensure that any outside area included in the licence will be controlled in a safe and effective manner and will pay special attention to the impact that the use of the outside area has on the surrounding community.

17. The Premises Licence Holder or nominated person shall have a written drugs policy detailing the actions to be undertaken to minimize the opportunity to use or supply illegal substances within the premises. This policy must be available to inspection on request by an authorised officer of a responsible authority at any reasonable time.

18. The Premises Licence Holder or nominated 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.

19. Suitable and sufficient conspicuous signage shall be erected and maintained at the entrance to the premises advising patrons that causing any disturbance or disorder will result in admission being refused.

20. A designated, de-lineated and bordered smoking area will be allocated outside the premises.

21. The amount of patrons in this area will not exceed five (5) persons and shall be monitored at least every hour by a staff member.

22. Any outdoor areas to front the premises must not be used by customers or staff.

23. The Premises Licence Holder or nominated person shall ensure that suitable ash trays or similar vessels are available for smoking litter.

24. Staff must assist patrons by any means that enable them to leave the premises quickly and quietly and without delay.

25. At least two (2) members of staff will be on duty Friday and Saturday evenings if the capacity of the premises exceeds forty (40) from 20:00hrs until closing time.

Prevention of Public Nuisance

26. No live or recorded music may take place on the premises and the exemption provisions within section 177A of the Licensing Act 2003 relating to live and recorded music no longer apply to this premises licence.

Dear Mr Prout,

Environmental Health would like to make representations to the licence variation for the Clarence, Clarence Place, Plymouth. Although negotiations have taking place regarding the application the Environmental Health Authority feel that section 177 should not be removed from the premises licence.

The representation is made under the licensing objective for the prevention of public nuisance.

For this reason the Environmental Health Authority believe a Licensing Committee hearing is necessary.

After negotiations the following conditions have been agreed;

1. Regulated entertainment is restricted to 2 nights per week.
2. The Licence Holder will control the sound levels of the music/entertainment. A noise-limiting device (the specification and design to be agreed with the Environmental Health Service) must be fitted so that all live amplified music including vocals and recorded music is channelled through the device(s). The maximum noise levels will be set by agreement with the Environmental Health Service and reviewed time-to-time, as appropriate. If the noise limiter is not working then no regulated entertainment is permitted.
3. Regulated entertainment is restricted to live and recorded music with 2 vocalists only. No instruments are permitted.

Regards

Will Tomkins

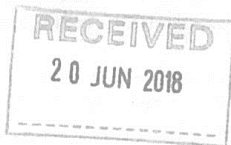
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Stonehouse
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16 June 2018

Ref: Change of Licence for The Clarence, 31 Clarence Place, Stonehouse, Plymouth.

Dear Sirs,

I am writing to **object** in the strongest terms possible to the Licence for The Clarence being changed to allow the performance of live music.

Background:

When I purchased my property in September 2016 the premises next door were not used as a public house, it was the Choux restaurant. We had no issues with the noise from or behaviour of the patrons of the restaurant which closed in the autumn of 2016. The premises were taken over by [redacted] and run up until the end of December 2016 as a cafe (Manor 31). In January 2017 without any warning the premises were converted back to a public house and renamed The Clarence. As you will know from previous licencing hearings there were numerous issues with drug taking, noise and anti social behaviour culminating in the death of one of the patrons on the premises. The current licencing conditions were imposed as a result of the issues experienced by the community and were supported by the police who had applied for the licence to be removed from the premises.

Grounds for Objection:

The current Licencee is Amy Magee who is very rarely at the premises, the daily running of the pub is performed by Maria who describes herself as the landlady. When the premises opened Maria and Amy spoke to myself and my partner about the running of the pub and we explained that the main issue had been the noise and the anti social behaviour of the patrons.

We have continued to experience problems with both the noise levels and behaviour of the patrons since Miss Magee took over the licence for the premises.

The current licence states that:

- (1) "No beverage purased inside the premises may be consumed in the premise outside area".
The stipulation has not been adhered to and patrons have been drinking outside. We have CCTV photos to show when this has happened.
- (2) "Any outdoor areas to the front of the premises must not be used by by customers and staff".
On a daily basis there are people stood outside the front of the premises smoking and talking in a loud manner with frequent use of bad language that can be heard within my property even though my windows are firmly closed. I have never witnessed any member of staff asking patrons to move or reduce the level of noise.
- (3) "A designated and delineated and boardered smoking area will be allocated outside the premises". This does not appear to have been done and is certainly not enforced.
- (4) "The amount of patrons in this area will not exceed 5 and shall be monitored at least every hour by a member of staff". Again this is not complied with as the majority of patrons stand outside the front of the premises on Clarence Place or sit on the wall outside my house.

- (5) "The Licence holder will ensure that suitable ashtrays or similar vessels are available for smoking litter". Again this has not been done as is evidence by the number of cigarette butts on the floor at the front of the premises. Photo enclosed.
- (6) "No live or recorded music may take place on the premises" The premises has a music system which is supposed to be played at an ambient level that cannot be heard outside the pub. This level of sound is not adhered to and the music can be heard inside my house. The premises also use the system for karaoke when they have not applied for a specific licence to do so. The singing of the customers can be heard within my property to the extent we can identify individual songs such as Sweet Caroline by Neil Diamond and We Will Rock You by Queen. This is even after the licensee has added sound proofing to the inside of the of the joint wall between the pub and my property. No sound proofing has been added to the single storey extension at the rear of the pub and the music is louder in the tenement part of my property where my children sleep. I have been round to the premises and asked both Maria and Amy to turn the sound down on various occasions. While they have always been polite the patrons have not. I am usually told by the customers sat at the bar to "fuck off" before I have a chance to speak to the licensee or their representative. And when I have mentioned the verbal abuse to them they have just said "that's the way they (the patrons) are and not to take any notice. When I ask for the music to be turned down the patrons tell me that "if I don't like the noise I shouldn't have bought a house next to a fucking pub and that I should just fuck off and fucking move somewhere else". When I politely explained that when I bought the property the premises was not trading as a pub I again was told to "fuck off". On one occasion I went into the pub to point out the music was unacceptably noisy the night before and that people were outside smoking and talking loudly where they are not supposed to be the customer sat at the bar made derogatory noises the whole time I was talking to Maria and said "I am having my wifes party here a week Friday and I don't care about the noise. It is going to be fucking noisy and I don't care what you think. We are going to make as much fucking noise as we like and there isn't a fucking thing you can do about it. So just fuck off 'cos we are going to be fucking noisy". Maria heard this conversation and said it's just him. I telephoned the council and explained what had happened when I went into the pub. They said that they would make a note of the complaint but if I wanted anything done about it formally I would have to contact the police. No specific licence as far as I am aware had been applied for on the Friday in question. The music was very loud drowning out the sound from our television. Because of the verbal abuse previously received in respect of this particular evening I did not feel it was safe for me to ask for the music to be turned down and telephoned the council environmental health department and spoke to Will who contacted The Clarence about the situation.
- (7) When the licensee applied for a specific licence to hold a party and have music the council visited our property and The Clarence while my partner was in the property and set a noise level that was acceptable. This level of noise has been exceeded on many occasions even when a specific entertainment licence has not been applied for. We have telephoned the council on several occasions since Miss Magee took over the licence regarding the unacceptable levels of noise from The Clarence.

In view of the fact that The Clarence has not adhered to the conditions of it's current licence and the fact that the patrons of the pub are the same people who used it's facilities when the previous anti-social behaviour occurred resulting in the conditions being imposed I do not feel that it will benefit anyone in the local residential community for live music to be played at this venue. It is not in keeping with the premises being attached to residential properties. I would also be deeply concerned for the safety of my children, as by Maria's own admission there has been a problem with drug dealers that she feels she is getting "a handle on". Past experience has shown that the drug problem will only get worse as live music has previously attracted drug dealers into the area.

There is also no real requirement for an additional live music venue in this area. The Office which is 400 yards down the road towards Stonehouse Bridge and the Tradesman's which is 400 yards in other direction both play live music and a very short distance away are all the pubs and clubs on Union Street.

I would therefore request that the application to change the conditions of Miss Magee's licence is refused.

If however, the change is allowed I would request that the following stipulations are made:

- (1) Miss Magee as licensee should be on the premises whenever any live music is played.
- (2) That the council licencing department visits both my property and The Clarence to agree what is an acceptable level of sound that must be strictly adhered to.
- (3) The licensee must adhere to the parts of her licence that state no more than 5 people should be outside the pub smoking at any one time. This should mean a designated smoking area at the side of the pub and that people should not be allowed to stand at the front of the pub or in the doorway that opens on to Clarence Place smoking. A policy that should be rigerously enforced by the licensee.

Yours faithfully

