

PLYMOUTH CITY COUNCIL

Subject: La Roux, 33 Notte Street, Plymouth PL1 2AZ
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
email: licensing@plymouth.gov.uk

Ref: ERS/LIC/PREM VAR

Key Decision: No

Part: I

Purpose of the report:

An application has been received from La Roux Limited in respect of La Roux, 33 Notte Street, 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 0832 /16.7 .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 14 June 2018 the licensing department received an application from La Roux Limited for the Variation of a Premises Licence under Section 34 of the Licensing Act 2003 in respect of La Roux situated at 33 Notte Street Plymouth.

1.2 Details of variation

Current Licensable Activities	Variation Application
(f) <u>Recorded Music</u> (Indoors) Hours Monday to Saturday 07.00am to midnight Sunday 08.00am to 10.30pm	No Change
(i) <u>Late Night Refreshment</u> Hours Monday to Saturday 11.00pm to midnight	No Change
(j) <u>Supply of Alcohol for consumption ON and OFF the premises.</u> Hours Monday to Saturday 07.00am to midnight Sunday 08.00am to 10.30pm	No Change
(l) <u>Hours premises are open to the public</u> Hours Monday to Saturday 07.00am to midnight Sunday 08.00am to 10.30pm	No change

1.3 Variation application

The nature of the proposed variation is;

To remove the Condition from the premises licence in Annex 3 - The supply of alcohol for consumption off the premises be restricted to Monday to Sunday 09.00hrs to 19.00hrs (Appendix 1)

To increase the licence area to include the outside decking area (Appendix 2)

To add the following condition – The sale and supply of alcohol on the decking area will cease at 10.00pm on all days.

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 No representations have been made by the responsible authorities in respect of this application.

3.0 OTHER PARTIES

Two letters have been received that are attached to this report. (Appendix 3 and 4)

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, 8.35 - 8.37, 8.80 - 8.82, 9.3, 9.32 - 9.41 9.42 – 9.45 and 10.10, 14.64 - 14.65.
- 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 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

Steps that have been taken to promote the Four Licensing Objectives

- CCTV to cover the entrance and counter
- Toughened glass used
- Alcohol sold as take away will be in closed containers
- The café entrance is well lit
- Regular checks of toilet facilities are made
- Drunks and excessive drinking will not be allowed
- Customer numbers limited to a maximum of 28 at any one time
- All building and fire regulations have been adhered to, (smoke/heat detection-visual/sound alarms-disabled access etc)
- Staff training for serving alcohol
- Minimal noise exposure, music kept at low volume
- The café has been sound proofed in excess of requirement
- The door is self closing/non-slamming
- Waste will be collected daily
- Litter bins provided
- Deliveries will use the loading bay
- Challenge 21 will operate
- Alco-Pops type drinks will not be sold
- Non-alcoholic drinks will be provided
- Serving will be by trained staff

Variation of Licence January 2016

Conditions agreed with the Environmental Health Authority

The Premises Licence Holder or nominated person shall control the sound levels of the music/entertainment

Noise from the licensed premises should not be audible outside the premises, so far as reasonably practical, at any time.

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

The supply of alcohol for consumption off the premises be restricted to Monday to Sunday 09.00hrs to 19.00hrs

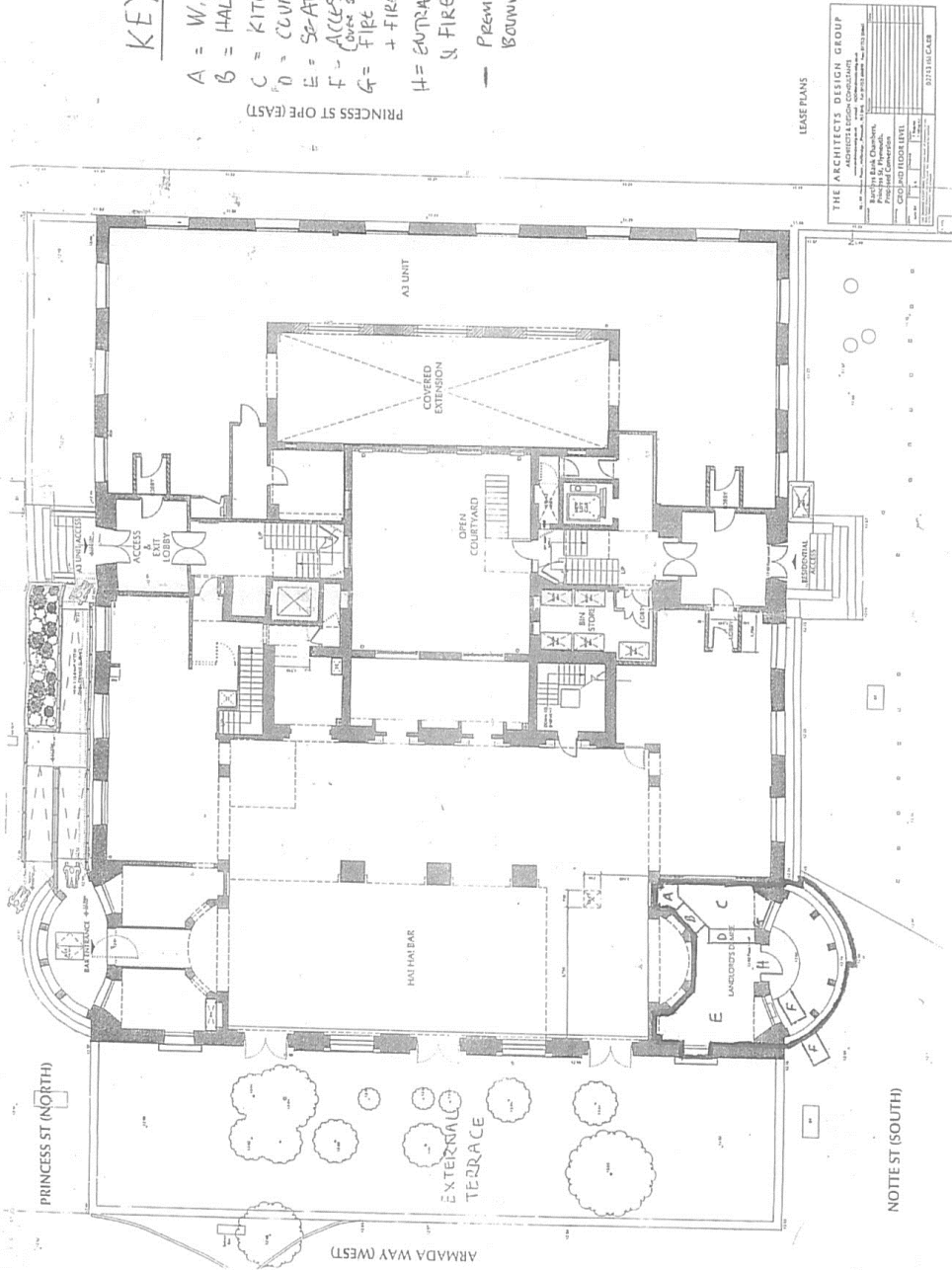
Existing Plan

Latest Plan details for application details here...

Details entered: 25 February 2016 at 17:58 by Lorraine Sheldon
 Date requested: 25/02/2016
 Date received: 25/02/2016
 Appointment date: ok
 Name: ok
 Date commences:
 Type of Application: Plan
 Appointment time:
 Result Date:
 Number:
 Date expires:

Notes:

KEY
 A = W.C.
 B = HALLWAY
 C = KITCHEN
 D = COUNTER
 E = SEATING AREA
 F = ACCESS RAMPS
 G = FIRE ALARM
 H = FIRE EQUIPMENT
 I = ENTRANCE, EXIT
 J = FIRE EXIT
 — PREMISES
 BOUNDARY



Apartment

Berkeley Square

33 Notte Street

Plymouth

PL1 2AZ

05/07/18

To: Office of the Director of Public Health

Head of Public Protection Service

Plymouth City Council

Windsor House

Plymouth

PL6 5UF

Dear Sir / Madam

I am writing with reference to the recent Licence Variation Application for the La Roux bar in Notte Street, Plymouth.

I would like to object to the application as these changes to the licensing terms could have a very significant negative impact on me, my health & well-being, due to my very complex disabilities. The lounge & kitchen of my apartment is directly above the La Roux bar and therefore is the most affected by noise & other nuisance from the premises below. It has been noticed that the La Roux bar has already been playing music outside during the evenings which I believe is against the Planning details & clearly it's customers are still outside on the patio / decking area after 9.00pm which I believe also contravenes the planning & licensing for the premises.

I have Learning Disability / Autism, (which includes acute sensory difficulties) / Uncontrolled Epilepsy / and I am severely visually impaired. I do have support from staff but this ends, at 10.00pm evenings. After this time of night, there is nobody to help me with my difficulties, but this is often the time when the music & other noise bothers me most.

When I decided to buy my apartment, I did so on the understanding that the music license for the bars below was until 10.00pm. I did not feel that at this time, this would have been a problem for me. Since living here for nearly 4 years, I have already been significantly affected by music from the Slug & Lettuce bar (previously The Berkeley Bar) below which often goes on for up to 2 hours past the licensing time. There is also a considerable amount of other noise which happens after closing time, due to people leaving the bar below, being affected by alcohol. There is also considerable noise from staff closing up afterwards.

As I am severely visually impaired, I rely very much on my sense of hearing. As a result my hearing is much more acute than other people. Therefore noise which may not bother other people, often has a considerable negative impact on my life quality, health & well-being.

In addition to this, because I have Autism, I suffer very much with sensory difficulties. Again noise & certain sound frequencies which may not bother other people, can cause me extreme difficulties which other people do not experience. This can often lead to sensory overload, i.e. extreme stress & anxiety.

My sensory processing systems are such that what would be considered ordinary noise levels to others, can seem extremely loud to me, and this can be a very distressing experience. Stress & anxiety then have the effect of increasing the frequency & intensity of my epileptic seizures. This is very dangerous for my health & well-being.

In addition to this, I have an added difficulty. As my apartment is the closest to & directly above the Slug & Lettuce Bar & La Roux Bar, cigarette smoke from people outdoors on the patio areas / decking below, enters my flat frequently, if I have windows open. This means that I am often unable to have my windows open in the evenings. The building is extremely well insulated & my home is always very warm, because the windows are south facing. With the recent warm weather the temperature in my apartment has been well into the 80's & as high as 88 degrees (F). Unfortunately, high temperatures of 70 degrees or more & temperature changes are one of the biggest factors which increase the frequency & intensity of my epileptic seizures. If we cannot control the temperature of my apartment to around about 70 degrees or below my seizures become more frequent & more intense & this is very dangerous for me. Therefore it is imperative that I am able to have my windows open to keep my home cool, without external noise / cigarette smoke causing me stress & other difficulties, which can significantly impact on my health & well being.

I feel that by extending the licensing hours for music & alcohol in the La Roux bar, below my apartment, this would be very likely to have a significant negative impact on me, my health & well-being & it would be very much appreciated if you would consider this & refuse to grant the proposed changes to the license conditions & hours.

Yours faithfully

Berkeley Square Residents Association
Berkeley Square
Plymouth
PL1 2AZ

5th July 2018



Office of the Director of Public Health
Head of Public Protection Service
Plymouth City Council
Windsor House
Plymouth PL6 5UF

Dear Madam/Sir,

**Representations Objecting to:- Application to Vary No 067937 - La Roux Ltd
Premises License:- PA0733 La Roux Cafe, Notte Street, Plymouth**

Please note that as of the date of this letter the Application has not been displayed in the public domain on posts in the vicinity of Berkeley Square as required by Licensing Law. It has been fixed to the decking enclosure which is obscured by parked cars. This is unacceptable as residents living in the vicinity and the public are rendered unaware of the Application and therefore put at a disadvantage. We request that the hearing be postponed, please.

We are aware of the Application as we were told by word of mouth and found the application reference number for the Application on the Licensing Website.

We make representations to strongly object to all three items requested in the variation referenced above, those being to:-

1. Add the condition - sale of alcohol on the decking area will cease at 2200hrs,
2. Increase the licensable area to include the decking, and
3. Remove condition in Annex 3 of the Licence

REASONS:-

1. Add the condition - sale of alcohol on the decking area will cease at 2200hrs,
The Application directly contravenes and seeks to overrule the Planning Consent Conditions granted to La Roux (The Premises) in 2017. Planning Application 17/00537/FUL for an outside decking area to The Premises was granted last year under the Town & Country Planning Act 1990 and subject to Conditions, inter alia, Conditions 5 below which for your ease of reference is quoted directly from the said Planning Consent:-

Condition 5 - Hours of Use Restriction

The use of the outdoor decked area hereby permitted shall not be used by customers outside the following times: 0800 hours to 2100 hours.

Reason:- To protect the residential and general amenity of the area from any harmful polluting effects, including noise disturbance likely to be caused by persons arriving at and leaving the premises and avoid conflict with policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and paragraph 123 of the National Planning Policy Framework 2012.

2. Increase the licensable area

Berkeley Square is a block of residential apartments overlooking the Iconic Armada Way with bedroom and living room windows directly above and adjoining The Premises. The residents right to the quiet enjoyment of their apartments will be severely and unacceptably compromised by the Applicant increasing the licensable area to provide On and/or Off Premises Licensing to take place upon the decking which is directly beneath residents windows. Customers arriving at, queuing for drinks being dispensed on the decking and leaving The Premises will cause unacceptable noise pollution, disturbance and loss of amenity to the residents.

Further, it is suggested that the enclosed decking area, which from the street resembles the look of a partly built garden shed, where customers queuing for Off License drinks is unlikely to provide the impression to visitors that the Council should be hoping for with the fast approaching Mayflower Celebrations.

With permission, we mention that one of our residents has highly impaired sight resulting in extremely acute hearing therefore the noise and disturbance caused by customers queuing on the decking using the decking as an Off or On Licence area directly beneath the apartment windows will be extremely distressing for that resident and may detrimentally affect that resident's health.

3. Remove condition in Annex 3

Any use of the decking by customers after 2100hrs is in direct contravention of the aforementioned Condition 5 of the Planning Consent, which was put in place to protect residents rights to quiet enjoyment and to protect the residential and general amenity of the area from any harmful polluting effects, including noise disturbance likely to be caused by persons arriving, queuing for drinks and leaving the premises and avoid conflict with policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and paragraph 123 of the National Planning Policy Framework 2012. Residents will suffer loss of amenity, noise pollution and disturbance as well as loss of their right to quiet enjoyment.

The Applicant is aware of the Terms of Lease to The Premises. Permission has not been sought of the Freeholder and no permission will be granted. The Applicant is therefore knowingly and intentionally seeking to breach the Terms of the Lease with this Application. It is suggest that the Applicant should not be encourage to breach the terms of the Lease with the Application.

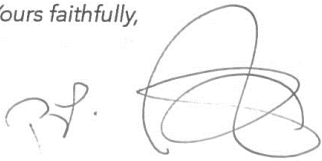
Members of the public are prohibited by law to contravene their planning consents and conditions. It is suggested that it would therefore be highly inequitable on the part of the Office of the Director of Public Health to assist the Applicant to knowingly and intentionally use the Application as an instrument to breach, undermine, contravene, ignore, override or otherwise

disregard the Planning Consent and Conditions as laid down in the Planning Application Officers Report.

The Planning Consent Conditions were set in place to afford the very necessary protection to the rights of the residents to quiet enjoyment as well as to protect the residential and general amenity of this prestigious and iconic area of Armada Way, where Berkeley Square is situated, from any harmful polluting effects, including noise disturbance, which are highly likely to be caused by persons arriving at, queuing for drinks on the decking and leaving The Premises. On this ground alone, it is suggested that the Application should be refused.

We urge the panel to refuse the Application to Vary in its entirety.

Yours faithfully,

A handwritten signature in black ink, consisting of a small 'R' followed by a large, stylized, circular flourish.

The Chairman of Berkeley Square Residents Association