



## **Minutes of the Licensing Sub-Committee**

**22 March 2018**

**-: Present :-**

Councillors Stocks, Thomas (D) and Ellery

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### **87. Election of Chairman/woman**

Councillor Thomas (D) was elected as Chairman for the meeting.

### **88. Apologies**

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Ellery instead of Councillor Thomas (J).

### **89. Minutes**

This item was withdrawn.

### **90. Calypso Coffee Company, 45 Winter Garden, Fleet Walk, Torquay, TQ2 5DW**

Members considered a report on an application for a Premises Licence in respect of Calypso Coffee Company, 45 Fleet Walk, Torquay. The Premises do fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation proposing conditions should the application be granted.	15 February 2018

Additional Information:

Members were advised that the application did not include the outside seating area, this area was not covered by the plan of the premises and therefore had not been consulted upon. Members confirmed and informed the Applicant that they would consider the application as submitted.

Oral Representations received from:

Name	Details
Applicant	The Applicant outlined his application and responded to Members questions.

Police	The Police outlined their representation and responded to Members questions.
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### Decision

That the application for Premises Licence in respect of Calypso Coffee Company, 45 Fleet Street, Torquay be granted as applied for subject to the inclusion of the following two conditions, as proposed by the Police and agreed by the Applicant:

- i) Food shall be available throughout the times the Premises is open to the public; and
- ii) Customers consuming alcoholic beverages shall be seated at all times.

### Reason for the Decision

Having carefully considered all the oral and written Representations, Members resolved to grant the application, having been encouraged by the quality of the application which Members noted had been submitted after consultation with the Responsible Authorities.

Notwithstanding that the Premises was located in the Licensing Authority's Cumulative Impact Area, Members were satisfied that the Premises would not add to crime and disorder and/or public nuisance and therefore saw no reason not to depart from its Policy.

In concluding, Members noted that with the inclusion of the two additional conditions the Police did not object to this application and that there were no Representations from any other Responsible Authority or any members of the public.

### 91. **Peaky Blinders, 107 Winner Street, Paignton, TQ3 3BP**

Members considered a report on an application for a review of a Premises Licence in respect of Peaky Blinders, 107 Winner Street, Paignton.

Written Representations received from:

Name	Details	Date of Representation
Public Protection	Application for a review of the Premises Licence in respect of Peaky Blinders.	1 February 2018
Police	Representation in support of the application for review of the Premises Licence in respect of Peaky Blinders.	16 February 2018
Community Protection	Representation in support of the application for review of the Premises Licence in respect of Peaky Blinders.	28 February 2018

Member of the Public	Representation in support of the application for review of the Premises Licence in respect of Peaky Blinders.	Undated.
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Oral Representations received from:

Name	Details
Public Protection	The Public Protection Officer outlined his application, played a selection of noise clips and responded to Members questions.
Police	The Police outlined their representation and responded to Members questions.
Community Protection	The Environmental Health Investigation Officer outlined their representation and responded to Members questions.
Respondent	The Respondent outlined his response to the application and submitted representations and responded to Members questions.

### Decision

That the Premises Licence in respect of Peaky Blinders, 107 Winner Street, Paignton shall be modified as follows:

- 1) The exemptions under the Live Music Act 2012 shall be repealed in respect of these premises;
- 2) All amplified live and recorded music shall be played through a noise limiter;
- 3) The noise limiter shall be set in consultation and at a level agreed by the Licensing Authority, an independent Noise Consultant and Premises Licence Holder;
- 4) The noise limiter shall be kept in a tamper proof container in a location where there is no public access;
- 5) No changes that increase the level of volume to the public address system shall be made without prior agreement in writing from the Licensing Authority's Environmental Health Department;
- 6) The premises shall have an in-house PA system to ensure that the agreed level set on the noise limiter is maintained;
- 7) All entertainers and performers using amplified equipment must use the premises in-house PA System to ensure that the agreed levels set on the noise limiter are maintained;

- 8) Suitable and sufficient size signage agreed by the Licensing Authority shall be displayed in prominent positions within the Premises and its outside areas to remind guests to respect neighbours and keep noise to a minimum;
- 9) The premises shall keep a complaints log and make it available to an authorised officer of the Licensing Authority or the Police on request. The log shall include the nature of the complaint, time received, and action taken and by whom;
- 10) After 9.00 pm the designated smoking area shall permit no more than 8 patrons at any one time;
- 11) After 9.00 pm the designated smoking area shall be monitored at all times by either an SIA door steward or a member of staff to ensure that patrons using the area do not cause a nuisance to nearby residents;
- 12) Live music shall not be permitted at this premises until such time that the Premises Licence Holder has put in place sufficient measures which address noise outbreak from this premises, in consultation with and as agreed by the Licensing Authority's Public Protection Officer; and
- 13) All glass bottles emanating from the premises shall be placed in lockable bins at all times.

### **Reasons for Decision**

Having carefully considered all the written and oral Representations, Members resolved to modify the Premises Licence having heard from the Responsible Authorities in respect of their concerns in the reactionary manner to which this premises was being operated.

In coming to their decision, it was of great concern to Members to learn that in respect of these premises, the Premises Licence Holder had been served with three Statutory Notices by the Licensing Authority in what was the first five months of its operation. Two of which were Abatement Notices served under the Environmental Protection Act 1990 following visits by Officers of the Licensing Authority's Public Protection Team to nearby residents home and witnessed therein, amplified music and patron noise emanating from the premises which was deemed by the Officer to be excessive enough to amount to a statutory nuisance.

It was noted by Members that within five days of opening, the Licensing Authority received its first complaint in respect of these premises and up until the date the report was written by the Licensing Authority's Public Protection Officer who submitted the Review application, had received in total 54 separate noise recordings during the time in which the premises had advertised performances of live and recorded music totalling 130 occasions and that complaints had been received from four different households.

Whilst it was noted that the Premises Licence Holder had installed Rockwool into the ceiling of the premises, it was on hearing from the Public Protection Officer that such insulation was of little use when preventing noise outbreak given the location and fabric of the building, Members were further concerned that the Premises Licence Holder was relying upon the installation of a noise limiter and in-house PA System with further mitigation only being proposed when the premises extended into a neighbouring property and therefore not addressing the noise issue that were being experienced at present.

In addition to noise outbreak, Members were also concerned to learn that the Police had served a s.19 Closure Notice had been served on the Premises Licence Holder within three months of being open for two reasons, one of which was for not having a Designated Premises Supervisor in day to day control and management of the premises and that the Fire Service had also raised concerns in relation to the premises change of layout, means of escape and their assumed capacity.

Notwithstanding that the Premises Licence Holder has taken steps to address some of the concerns raised by the Responsible Authorities, it was in Members opinion, that these issues arising fell well below the standard reasonably expected by them of a responsible Premises Licence Holder.

In concluding, the oral submissions by Premises Licence Holders at the hearing did not provide reassurance to Members that they were fully aware of their responsibilities in upholding the Licensing Objectives and given the inactions and reactionary measures to date, Members were unable to say with any real confidence or conviction that the Premises Licence Holders would take the steps required to address the issues of public nuisance without the condition pertaining to amplified music not being permitted at these premises until such time that the Premises Licence Holder had taken sufficient measures to address the noise outbreak. As such, Members resolved that it was appropriate to impose this condition to ensure that the Prevention of Public Nuisance Licensing Objective was promoted.

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Chairman/woman