



Minutes of the Licensing Sub-Committee

22 June 2012

-: Present :-

Councillors Addis, Ellery and Doggett

8. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

9. Minutes

The Minutes of the meeting of the Sub-Committee held on 31 May 2012 and 7 June 2012 were confirmed as a correct record and signed by the Chairman.

10. Licensing Act 2003 - Review of a Premises Licence following the serving of a Review Notice, as in accordance with section 53A of the Licensing Act 2003 in respect of Mambo/The Beach Hut, 7 The Strand, Torquay

Review of a Premises Licence following the serving of a Review Notice, as in accordance with section 53A of the Licensing Act 2003 in respect of Mambo/The Beach Hut, 7 The Strand, Torquay TQ1 2AA.

The Premises do fall within the Cumulative Impact Area.

Written Representations received from:

| Name | Details | Date of Representation |
|------------|--|------------------------|
| The Police | Further Supporting Information in relation to the Licensing Objectives 'The Prevention of Crime and Disorder', 'Public Safety', The Prevention of Public Nuisance' and 'The Protection of Children from Harm', including covering letter advising of on-going Police investigation, Statements from Police Officers, Correspondence with Lifestyle Enterprises (UK) Ltd, | 15 June 2012 |

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| | Devon Fire and Rescue Service, e-mail correspondence with Crime Prevention Officer and report from 4Front Security SW Ltd. | |
| Public Protection | Representation in relation to the Licensing Objective 'The Prevention of Public Nuisance' including a 'Noise Log,' Proposed Conditions, e-mail correspondence, Copies of Correspondence with Lifestyle Enterprises (UK) Ltd and Licensed Premises Report from the Police. | 13 June 2012 |
| Torbay Safeguarding Children Board | Representation in relation to the Licensing Objective 'The Prevention of Protection of Children from Harm' and 3 Proposed Conditions. | 14 June 2012 |
| Member of the Public | Representation in relation to the Licensing Objectives 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance'. Additional information was received by email to support the initial representation as the person was unable to attend the committee hearing in person. | 15 June 2012 19 June 2012 |
| Member of the Public | Representation in relation to the Licensing Objective 'The Prevention of Public Nuisance.' | 15 June 2012 |
| Mambo/The Beach Hut | Representation in response to Review, including correspondence between Lifestyle Enterprises (UK) Ltd, the Police, Future Technical Solutions (CCTV), Express Fire Report and Invoice for polycarbonate glass purchases. | 15 June 2012 |

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Request to extend the time for Oral Representations:

The Chairman agreed to the request from the Applicant and the Respondent's Legal Advisors to allow 45 minutes for Oral Representations.

The Committee were advised by the Respondent's Legal Advisor that the Designated Premise Supervisor was not in attendance as expected, due to an ongoing Police investigation.

Oral Representations received from:

| | |
|---------------------------------------|--|
| The Applicant's Legal Representative | The Applicant's Legal Representative outlined their case, as set out in their submitted documents and responded to Members questions. |
| Public Protection | The Senior Environmental Health Officer outlined his Representation, made reference to proposed conditions and responded to Members questions. |
| Torbay Safeguarding Children Board | The Professional Advisor/Business Manager outlined her Representation and proposed conditions and responded to Members questions. |
| The Respondent's Legal Representative | The Respondent's Legal Representative outlined their case, responded to the submissions made by each Party and responded to Members questions. |

The Licensing Sub-Committee noted that one of the Interested Parties who had been advised that the Meeting was taking place and had not returned the Notice to say they were attending. Members agreed it was in the public interest to continue with the Meeting.

Respondent's response to Representation:

The Respondent's Legal Advisor advised Members that Lifestyle Enterprises (UK) Limited had considered the concerns raised at the Expedited Review Hearing on 31 May 2012 and had taken steps to address these.

Advised that that the existing DPS will be removed and an experienced DPS currently working for Lifestyle Enterprises (UK) Limited will replace him, proposing that Members and the PLH could have no confidence in him, as a result of issues raised at the Expedited Review hearing .

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The Respondent's Legal Advisor's stated that the report submitted on behalf of the Applicant by 4 Front Security was tainted and had a number of inaccuracies and unsubstantiated allegations within it. He also highlighted the timing of the report and resignation letter within it and advised that the Company had not had their contract renewed prior to the date of the Report and another Company had been awarded the Contract. This was confirmed by the proposed new DPS.

Lifestyle Enterprises (UK) Limited provided Members (Agenda Item 6) with an updated Code of Conduct for Responsible Retailing, dated June 2012, which in their view addressed the concerns of the Applicant and the Committee at the hearing on the 31 May 2012.

Members were advised that the new CCTV System had been installed and was operational and had been signed off by the Police and observed by the Police Licensing Officer. Guidelines for the operation and retention of CCTV footage is included in the Code of Conduct (Page 187).

Toughened/strengthened glasses and plastic/polycarbonate vessels have been purchased and delivered and the invoices shown (Pages 223 and 224 Agenda Item 6).

Lifestyle Enterprises (UK) Limited have been working closely with the Crime Prevention Officer to address thefts from Mambos and Public Protection over noise breakout.

The Respondent's Legal Advisor confirmed that he had met with the Senior Environmental Health Officer prior to the hearing and had agreed a number of conditions, should Members be mindful to deal with this matter by way of imposing further conditions on the Premises Licence.

Additional information:

The Committee resolved at 12.20pm to undertake a site visit to Mambo/The Beach Hut and were accompanied by the following people:

Director, Lifestyle Enterprises (UK) Limited – Premise Licence Holder
Proposed new DPS
Legal Representatives for Respondent and Applicant;
Council's Senior Legal Advisor;
Senior Licensing Officer;
Senior Environmental Health Officer;
Professional Adviser and Business Manager, Torbay Safeguarding Children Board;
Company Director, Future Technical Solutions (CCTV);
Clerk

Meeting reconvened at 13.30.

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Members of the Licensing Sub-Committee asked further questions of the Premises Licence Holder and their Legal Representative, as a result of their findings during the site visit.

Concerns were raised by Members over how small the Premises were and its proposed capacity, along with issues relating to pinch points and overcrowding particularly in respect to the first floor bar area. In addition Members sought clarification as to the structure, management and supervision of the proposed sound-proofing measures in respect of the first floor balcony area.

Additional Conditions:

The Committee received 30 additional conditions from the Applicant's Legal Representative which were circulated to Members and the Respondent's Legal Representative prior to summing up.

7 additional conditions were also received from Torbay Safeguarding Board and Public Protection following the site visit.

The Committee retired at 14.00 to deliberate and to take the opportunity to read the additional submissions.

The Committee reconvened at 16.20.

Decision:

After careful deliberation of the number of late conditions put forward by Torbay Safeguarding Children Board and the Police, Members resolved that it was necessary to allow the Respondent an opportunity to make further submissions in respect of these conditions prior to them making a determination

Additional discussion:

The Respondent's Legal Representative advised Members that he had had an opportunity to go through the conditions with the Premises Licence Holder and concluded that they would accept 26 of them. Members were then taken through each of the proposed conditions.

On hearing the further submissions, Members resolved that they were not in a position to make an immediate determination, as it was necessary to give further consideration and debate to the additional submissions and to assess these against the options available to them in reaching a determination that sought to ensure the Licensing Objectives are promoted.

Parties were advised that Members would reconvene on Monday 25th June 2012 with an aim to reach a determination by close of business on Wednesday 27th June 2012. This date was proposed, taking into account Members prearranged commitments. Members resolved that prior to their determination of this matter that the interim step shall remain in force.

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Decision:

Members resolved after careful consideration of all the written and oral representations before them, to lift the interim steps and modify the licence with the following conditions:

1. CCTV capable of providing pictures of an evidential standard in all lighting conditions, particularly with regard to facial recognition, shall operate within the premises throughout the times the premises are open to the public. All recordings from the system shall be kept for a minimum of 14 days and copies of recordings to be supplied to the police within 7 days of the request.
2. A member of staff who is trained in the operation of the CCTV system shall be available at all times the premises is open.
3. Any identified defect in the CCTV system shall be logged at the premises and remedied as soon as reasonably practicable. The Police Licensing Officer or Police Licensing Team shall be notified by email of all defects, action required to rectify the situation and time frame for such action within 24 hours of a defect being identified.
4. In relation to the ground, first and second floors, all drinks must be served in toughened or strengthened glasses before 10.00 pm daily, and from thereafter until closing time all drinks must be served in plastic or polycarbonate vessels. In addition, from 11.00 pm daily no alcohol shall be served in glass bottles from which it is intended or likely that a person shall drink.
5. On the 3rd floor from 11.00 pm no alcohol shall be served in glass bottles from which it is intended or likely a person shall drink.
6. Regular glass collections shall be in operation throughout the premises, to ensure the premises are cleared of glasses and bottles as quickly as possible.
7. All glass collectors shall wear readily identifiable uniforms.
8. The DPS and all Personal Licence Holders shall be trained in first aid.

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9. On Wednesday, Thursday, Friday, Saturday and Sunday nights when the premises remain open for the sale of alcohol after midnight and then close after 0030 hours, a minimum of 8 SIA door supervisors (including one female) shall be employed on the premises. This condition shall also apply on Christmas Eve and New Years Eve when they do not fall on a Wednesday, Thursday, Friday, Saturday or Sunday, and all Bank Holiday Mondays. On all other occasions, the Premises Licence Holder shall risk assess the requirement for door stewards and employ such door stewards, if at all, in such numbers and at such times determined by that risk assessment.
10. SIA door stewards shall be in the following positions at all times:
 - 1 at the front door entrance from 7pm and to be joined by a second, from 9pm until the premises is closed.
 - 1 at the entrance to the first floor bar from 10.00 pm between the AWP Machines and the DJ Box to control the capacity of 150 persons.
 - 1 at the balcony door on the first floor from 10.00 pm.
 - 1 at the entrance to the second floor club to control the capacity of 110 persons (when this floor is open to Patrons)
 - 1 at the entrance to the third floor from 10.00 pm to control the capacity of 60 persons
 - 2 further floating door stewards throughout the premise.
11. The SIA door stewards in control of the capacity on each floor inside the premises will communicate fully to the front door/the head SIA door steward to ensure that when a floor has reached capacity this will allow the door staff on the front door entrance to direct Patrons to a floor with space.
12. A clicker system shall be used by SIA door stewards to count the number of persons entering and leaving the premises, or parts of the premises where appropriate, to ensure that the maximum specified occupancy is not exceeded at any one time. The counting system shall be sufficiently accurate to inform an authorised person, on request, of the number of Patrons in the premises or part of the premises, as appropriate.
13. The premises will have a management scheme in place to ensure that all areas of the premises do not become overcrowded, even if the capacity for that area has NOT been reached.

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14. The premises will ensure that the below capacities are not exceeded at any time:
 - Ground Floor Café – 60 persons, including up to 17 persons outside
 - First Floor – 150 persons, including those persons seated on the balcony
 - Second Floor – 110 persons
 - Third Floor – 60 persons, including persons on the balcony
 - TOTAL – 380 persons
15. Where customers wait in a queue for admission to the front door entrance or parts of the premises where appropriate, all reasonable steps will be taken to ensure that such persons do not obstruct exits, passageways and stairways.
16. Any persons employed at the premises in the sale and supply of alcohol, shall attend and successfully complete the BIIAB Level 1 Award in Responsible Alcohol retailing within 2 months of commencing employment, or for existing staff within 2 months of the date of this hearing.
17. The DPS must hold or complete the BIIAB National Certificate for Designated Premises Supervisors within 2 months of commencing employment at the premises or for the current DPS, within 2 months of the date of this hearing.
18. A record of all staff training, including copies of all relevant BIIAB Certificates, shall be kept at the Head Office for a minimum period of 12 months and be available to the police or Local Authority Licensing Officers for inspection on demand.
19. A Personal Licence Holder shall be on duty at all times when the premises sell or supply alcohol.
20. Notices regarding the refusal of sale of alcohol to persons, who appear drunk, shall be prominently displayed at all points of sale and supply of alcohol, for the attention of persons so employed.
21. Notices regarding the refusal of sale of alcohol to persons, who appear drunk, shall be prominently displayed at all points of sale on each floor of the premises and at the entrance to the premises, for the attention of all customers.

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22. Every incident of serious crime and disorder on the premises shall be immediately reported to the emergency services and the DPS or the Duty Manager. Any other incident of crime and disorder shall be reported to the police within 12 hours.
23. An accurate record of all serious crime and disorder incidents must be written in the Incident Book, along with the names and addresses of the individuals, if possible, and passed onto the appropriate authority. In the absence of this, should an individual refuse to wait for the attendance of the emergency services, then the timings should be logged along with the accurate record of the incident so as to allow the CCTV system to assist in the identification of individuals.
24. The DPS or the Duty Manager must notify the Premises Licence Holder within 24 hours of all incidents of serious crime and disorder.
25. The DPS shall ensure that an Incident Book is kept on the premises and that all incidents are recorded therein on a daily basis. This record shall include the full names of all persons involved, if possible or practical to do so. The incident Book shall be made available for inspection by a police officer, a police licensing officer or Officers of the local authority on demand, and such records shall be kept at the premises for a minimum of 12 months.
26. The premises shall maintain a Refusals Log and record all reasons for refusing entry, and where practical, record details of all persons refused entry. This record shall be made available for inspection by a police officer, a police licensing officer or Officers of the local authority on demand, and such records shall be kept at the premises for a minimum of 12 months.
27. Where a Pubwatch Scheme exists, the premises shall join and actively participate by providing details of all individuals involved in violence on the premises.
28. The premises shall operate a Challenge 25 policy and all staff shall be trained in respect of this, to ensure that it is complied with at all times.
29. No member of staff shall be permitted to sell alcohol until they have completed the Challenge 25 training.

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30. A record of the Challenge 25 training shall be kept on the premises and shall be made available for inspection by a police officer, a police licensing officer or Officers of the local authority on demand, and such records shall be kept at the premises for a minimum of 12 months.
31. Staff training on a Challenge 25 policy shall include the risks to young people in respect of the consumption of alcohol.
32. No person under the age of 18 years shall be permitted on the premises after 19.00
33. No person under the age of 18 years shall be permitted on the premises before 19.00 unless accompanied by a responsible adult.
34. The premises shall display clear signage which states when and where persons under 18 years are permitted on the premises.
35. The premises shall provide cloakroom facilities and display posters to this effect on each floor of the premises.
36. Notices warning of potential thefts of mobile phones, handbags and wallets will be prominently displayed on each floor of the premises.
37. A designated room will be used to search entrants and detain suspects until police arrival. This area will be covered by CCTV.
38. The premises will remove the 'U' shaped bar on the first floor of the premises and replace with a bar alongside a wall on this level by 1 October 2012.
39. The first floor bar shall have a clearly defined dance floor area, which will be easily identifiable.
40. There shall be no 2 for 1 drink promotions after midnight.
41. After 10pm patrons using the first floor balcony area shall be seated at all times.
42. Access to the first floor balcony area from 12 midnight to 02.00 am shall be as a designated smoking area only.

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43. No drinks shall be permitted on the first floor balcony area after 12 midnight.
44. At all times the first floor balcony area is open after 10.00 pm, the area shall be directly supervised by a SIA door steward who shall ensure as part of their duties that excessive noise is not generated by balcony patrons so as to unreasonably disturb nearby residents.
45. Patrons who behave in a noisy or disorderly manner on the first floor balcony area shall be removed from the balcony area and asked to leave the premises.
46. The door to the first floor balcony area shall be the only point for access and egress to this area and opened for those purposes only.
47. The door to the first floor balcony area shall have an acoustic lobby constructed to the satisfaction of the responsible authority for public nuisance and planning (should planning permission be necessary) by the 1 October 2012. It shall be constructed and operated to ensure that if regulated entertainment is being played, only one door shall be opened at any time to prevent noise breakout. These doors shall be fitted with automatic closers.
48. All regulated music should be played through a noise limiter which is to be set at a reasonable level as agreed with the local responsible authority for public nuisance; this is to be independently calibrated and copies of reports forwarded to the responsible authority for public nuisance within 21 days of any recalibration. It shall be sealed in a tamper proof box and adjustments shall only be made with the written permission of the responsible authority for public nuisance.
49. No changes shall be made to the public address system without prior written permission of the Responsible authority for public nuisance.
50. A monthly meeting for a period of 6 months from 25th June 2012 shall take place to ensure that any issues of concern are identified with the Premises Licence Holder and dealt with immediately. These meeting shall be attended by the Premise Licence Holder, the premises DPS and representatives from the Police, Officers of the local authority's public nuisance, licensing department and safe guarding children board. An accurate record shall be kept of the concerning issues and what actions are required to resolve these.

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Reason for the Decision:

In reaching this decision Members had regard to each parties Representation and supporting evidence, along with the proposed conditions and measures put forward by them. During their lengthy deliberation, Members gave careful consideration to whether the imposition of conditions, if complied with, would seek to uphold the Licensing Objectives or whether a revocation of the Premises Licence was appropriate, due to the serious incidents that had taken place on the Premises and the apparent failings of the Premises Licence Holder to operate and manage the Premises in a responsible manner.

Members noted the evidence of the Police which clearly demonstrated that their concerns in respect of the high levels of crime linked to the Premises, underage drinking, heavily intoxicated patrons, overcrowding and pinch points had been raised with the Premises Licence Holder in person and in writing, yet no effective measures to address these concerns were taken by the Premises Licence Holder until the service of the Expedited Review Notice. Members concluded that had measures been taken previously to address these concerns, the serious incidents of glassing which involved individuals under the age of 18years of age may have been avoided.

Members gave careful consideration to a report submitted by the Police, as prepared by 4Front Security South West Limited who were the providers of SIA Door Stewards to the Premises for the past five and a half years. Noting its contents and the oral submissions put forward in respect of the timings and circumstances around its preparation and the fact that the Director of the company had not formally raised these concerns with the Premises Licence Holder previously, Members resolved to accept its content with some reservations. However despite these reservations, Members were satisfied that the majority of the issues raised within the report had, on a number of occasions, been raised by the Responsible Authorities with the Premises Licence Holder directly and that it was the primary responsibility of the Premises Licence Holder to take decisive action to address these concerns.

In considering the written and oral submission put forward by the Professional Adviser and Business Manager from Torbay Safeguarding Children Board, following evidence that individuals as young as 16 and 17 years of age had been able to gain entry to these Premises, Members noted the likely impact of alcohol on those who are 18 years of age and younger. In particular, that these individuals are not equipped to deal with alcohol, that they can become extremely vulnerable and are far more likely to be exploited and the victims of crime.

In considering the oral and written representation put forward by the Senior Environmental Health Officer of Torbay Council, Members noted that concerns in respect of noise from these Premises had been received by the department over the last 12 months and although the Premises Licence Holder has engaged on a regular basis with the Local Authority to resolve these issues on a trial and error basis, at times it has taken a while for the Premises Licence Holder to respond.

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Members also had regard to the written Representations from the Interested Parties who reside in close proximity to the Premises and the impact these Premises are having on them in respect of disturbance by regulated entertainment and noise from Patrons on the first floor balcony area. This coupled with evidence that Police Officers whilst on duty at 11pm and as late as 2.30am could hear amplified music and noise emanating from approximately 20-30 Patrons on the first floor balcony area from the street and some 90 meters away which was distinguishable above other noise and reports that Patrons had climbed over the balcony on to neighbouring premises and lowered themselves on to the public footpath below with no intervention by staff caused Members real concern. Members resolved that not only was such an emanation of noise in breach of the Premises Licence but serious and appropriate measures need to be implemented to restrict the use of this area to ensure that the Licensing Objectives relating to The Prevention of Public Nuisance, The Prevention of Crime and Disorder and Public Safety are upheld

Members noted the measures taken by the Premises Licence Holder since the service of the Expedited Review Notice in that they had taken steps to remove and replace the Designated Premises Supervisor, installed CCTV, taken delivery of plastic glasses which they proposed to use from 11pm onwards, changed the company employed to provide SIA Door Stewards, enhanced and implemented a code of practice (as a result of criticism by the Police, observations by Members of the Licensing Sub-Committee at the Expedited Review Hearing on the 31st May 2012 and a review commissioned independently by the Premises Licence Holder. This code outlines disciplinary and sanctions for non-compliance as well as detailing training, procedures, ethos for all staff and sub-contractors), reconfigured its tills to have a further check of age at point of sale, cordoned off an area which is deemed to have added to the significant number of thefts at the Premises and established a cloakroom facility and altered the stairs to create a better thoroughfare and access and egress to the first floor bar area.

Following a site visit to the Premises, Members were surprised just how small the Premises were. On the first floor bar area Members could clearly identify pinch points and were concerned that there was no identifiable dance floor to separate those stood at the bar and those who wished to dance. On being told by the Premises Licence Holder that the whole of the Premises was licensed for dancing, Members resolved that due to the limited space on this floor, the proposed capacity and construction of a new lobby within this existing area to control noise breakout when Patrons access and egress the balcony, that in their view this raised a potential risk for further serious crime and disorder and as such, the bar area should be moved to allow more space for Patrons.

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In concluding, Members resolved that the actions taken by the Premises Licence Holder since the 31st May 2012, their agreement to a number of conditions proposed by the Responsible Authorities and a verbal commitment at the hearing to work with those Authorities, demonstrated that they had taken on board the concerns raised and that there was clearly a new willingness to operate and manage their Premises in a responsible manner.

In light of this, Members resolved that it was not appropriate or proportionate to revoke the Premises Licence but instead unanimously voted to modify the Premises Licence with comprehensive conditions assembled by them, having regard to all the evidence before them with the sole intention to address and prevent a reoccurrence of such incidents which led to the Expedited Review and to remedy the concerns raised by the Responsible Authorities and Interested Parties.

In the event that these measures do not succeed, a further Review of the Premises Licence would be expected.