

## **LICENSING SUB-COMMITTEE**

Monday 10 November 2008

### **Present:**

Councillors Branston, Newby and Shiel

### **Also Present:**

Principal Environmental Health Officer, Licensing Solicitor and Member Services Officer (HB)

70

### **APPOINTMENT OF CHAIR**

Councillor Branston was appointed Chair for this meeting.

71

### **DECLARATION OF INTERESTS**

No declarations of interest were made by Members.

### **LICENSING ACT 2003**

72

### **REVIEW OF PREMISES LICENCE - THE IMPERIAL, NEW NORTH ROAD**

In attendance:

#### **Applicants for a Review**

Ms Helen Samways  
Mr Lee Natrass  
Mr Dampney  
Dr Wiggins  
Ms V. Wells

#### **Representing JD Wetherspoon (Respondents)**

Ms Melinka Berridge : Senior Licensing, Planning and Regulatory Solicitor  
Mr Kris Dungey : General Manager SW England and Wales  
Mr Martin Cumiskey : Designated Premises Manager  
Mr James Honour : Area Manager for Devon

#### **Representing Exeter City Council**

Mr John Leech : Environmental Health Manager

The Chair introduced the Sub Committee Members and Officers. Prior to the meeting Ms Samways circulated a written submission that related to her application for a review. All parties and the Members read this document and accepted it as read.

#### **Ms Samways**

Helen Samways stated that she had requested changes to the conditions to prevent use of the beer garden area beyond 23.00hrs to safeguard the rights of the residents. She referred to the written statement which detailed the issues under consideration. Neither the Sub Committee Members nor the Respondents had questions to put to the Applicants.

### Mr Dampney

Mr Dampney stated that his experiences in relation to the running of the premises related to day time rather than the night. Mr Dampney stated that the staff employed tended to be young people and he questioned whether they were mature enough to make decisions.

The Environmental Health Manager reported that the application for a review related to noise within the grounds of the Imperial after 23.00 hrs, from people smoking and/or drinking. The Environmental Protection Section has received 8 complaints regarding noise from the Imperial since the beginning of 2008. These complaints had all been received during the summer months (May to July), with the exception of one complaint regarding street noise from people leaving the premises. This had been received on 7 October 2008, after the application for review.

Following complaints in the summer, a residents' meeting had been held by J D Wetherspoon on 21 July 2008. Although the company had intended to distribute the minutes from this meeting, it was accepted that this did not happen. An action plan, addressing the concerns raised by the residents, has been produced and implemented by J D Wetherspoon which had been circulated to residents.

The Environmental Health Manager reported that officers were satisfied that J D Wetherspoon were addressing the issues raised in the action plan and submitted recommended conditions to the Sub Committee for consideration.

### Respondents

Ms Berridge apologised to the Sub Committee for taking up their time and to the neighbours. Ms Berridge stated that the company had put in place immediate steps to address the concerns raised.

### Actions already taken

The company had met those residents who had complained to ensure that all information was available. A pre-meeting had been arranged with Ms Samways and Mr Natrass at the premises and Ms Lisa Cocks of the Environmental Protection Section which had proved very beneficial. An action plan had been devised and implemented. All parties had indicated that they were satisfied with the measures proposed.

The details of the Action Plan were set out in pages 20-23 of the agenda papers.

With regard to CCTV provision, a concern had been raised regarding customers leaving the pub area and behaving in an anti-social way. The company does not tolerate such behaviour on the premises and cameras will be in place by the end of November which will provide full coverage. If coverage shows individuals behaving inappropriately on the premises they will be banned from using the premises and footage will be provided to the relevant authorities.

Full signage of approximately 2m in height and 1m wide will be provided at all exits and entrances and close to the front door with a clear message to customers to respect the rights of neighbouring residents. The signage will indicate that the beer garden facilities will close at 23.00 hrs. The premises also operates the Challenge 21 scheme.

The Action Plan will cover the comments of Dr Wiggins relating to re-cycling bins on the premises. These will be reinstated by the end of the year.

All other action points have been implemented immediately upon confirmation by the residents that they were acceptable.

To ensure as far as possible that problems did not recur, the company was committed to regular meetings with residents. Company representatives would attend the meetings to ensure that the premises' management team are addressing all concerns. Senior management would be trained to ensure that any concerns were raised to the next level if no-one was available.

#### Application in context

The eight complaints raised are essentially noise complaints which should be placed in the context of 13 years of operation. It is no coincidence that they coincide with the first full summer since the introduction of the smoking ban. Uniquely, the Imperial has residential apartments above the premises which were in existence when the premises was being developed. There was a fair and reasonable expectation of some noise during their residence. This noise has not been unreasonable excessive.

The premises has a large park-like garden and it was difficult to monitor people in the grounds but efforts would be increased now.

Ms Berridge added that the company operated a stringent training programme and no one is allowed to sell alcohol until they have completed an induction process and are properly trained. Ms Berridge said J D Wetherspoon equipped staff with suitable skills to refuse clients in appropriate circumstances.

Ms Berridge confirmed that the company were happy to agree to the request from Ms Samways and Mr Natrass regarding the closure of the beer garden after 23.00 hrs and to the recommended conditions produced by the Environmental Health Manager. The company had no problem in committing to these if considered appropriate to impose them by the Sub Committee.

In respect of proposed conditions, the person to be designated would be the Designated Premises Supervisor who would also be the appropriate person for liaison with Environmental Health Officers. For one-off events (proposed condition 2), the proposal would be to liaise with the Environmental Health Officer. Regarding proposed condition 3, we are prepared for the patio and garden area to be closed after 23.00 hours with smokers directed to a small area at the front entrance to the premises.

In summary, Ms Berridge apologised again for the company's shortcomings and reassured the Sub-Committee that the matter was taken very seriously. The company was committed to liaising with residents and Environmental Health Officers in future with an on going commitment to the action plan.

Ms Berridge responded as follows to questions from Members:

**Councillor Newby : How many door staff work on weekends? Are incidents logged or reported to the manager? What training is given to staff in respect of those individuals who have drunk too much?**

The company operates a strong front of house management policy and since 2005 all door supervisors have been SIA qualified. Two door staff are engaged from

19.00hrs until closing time on Friday and Saturday and are trained to meet certain standards of behaviour.

Door staff are required to complete a log book inputting issues identified during the course of the night including the number of entries refused/people ejected.

**Are notices precise enough for those who are very drunk? What action is taken on glass/bottle removal?**

Access to and egress from the Orangery have been restricted. Door staff now stand at the main entrance to the premises and ensure that no one leaves with glasses and bottles. All clientele are reminded by front of house staff to drink up and not to take glasses with them.

In respect of the use of the beer garden, staff now collect empty glasses etc. between 22.00 hrs and 23.00 hrs.

**Councillor Branston : Experienced managers are overseeing younger members of staff who might nevertheless be under pressure to serve quickly and not uphold policies like Don't Do Drunk or Challenge 21.**

Mr Cumiskey, who has over four years of experience as co-manager and worked in conjunction with the Designated Premises Supervisor, stated that a third of the workforce was 18-25. There was constant coaching and a supervisor in the bar at all times. Induction training was comprehensive and there were mystery visits and checks at all levels. Where drunk customers were identified the refusal was recorded on the till and the refusal log was analysed weekly. If the number of refusals was low then a training query was raised.

The management team responsible for the overall commercial management of the premises numbers 6 or 7 including kitchen managers and includes four personal licence holders which is unusually high. Additionally, there is a significant amount of training for the Bar Supervisor Role. Training was detailed and structured and it could take 18 months to go from Associate to Supervisor and two or two and a half years to become a Bar Supervisor. In the absence of a Designated Premises Supervisor, a duty manager would be present.

There are three separate bar areas. On each bar there is a supervisor plus two further managers on the next tier of management (one of whom would be a Designated Premises Supervisor).

The company had won industry awards for quality of training.

**Councillor Newby : How long has Ms Samways lived in the apartment?**

Just under three years.

Neither Mr Dungay or Ms Samways wished to make any further representations.

The Sub Committee retired at 14.55 hrs to make its decision. The Licensing Solicitor and the Member Services remained with the Sub Committee.

The hearing re-convened at 15.05hrs.

The Chairman stated that the Sub Committee had been impressed with the measures taken and proposed to be taken in response to the issues raised in respect of the licensing objective relating to public nuisance. However they felt that

having considered all the information and evidence before them, it was both reasonable and necessary to impose all the conditions proposed by the Environmental Health Manager to ensure the promotion of the Licensing Objective of the Prevention of Public Nuisance.

**RESOLVED** that the conditions on the premises licence be amended by the addition of the following:

- (1) a person shall be designated in writing to deal with any issues regarding nuisance or disturbance. This designated person shall be available for contact, via a specified telephone or mobile phone number, at any time whilst any licensable activity is provided. The designated person shall investigate every complaint made. A written or electronic record shall be kept of the time, details of the complaint, the details of the designated person investigating the complaint and outcome of the complaint. This record will be kept in a legible form for a period not less than 12 (twelve) months and made available on request of an authorised officer;
- (2) all future one-off events to take place in consultation with the Environmental Health Protection Section of Exeter City Council to ensure that noise is kept to an acceptable level and does not cause a disturbance to the neighbouring properties; and
- (3) customers (including smokers) will be prevented from using the garden/patio area after 23:00 hours, 7 days a week. Staff will start to remind customers of the need to return inside the premises from 22:45 hours (or earlier if the garden/patio area is particularly busy). After 23:00 hours the patio and garden will be closed to smokers and they will be directed to a small area at the front entrance to the premises, away from the most noise sensitive properties.

(The meeting commenced at 2.00 pm and closed at 3.10 pm)

Chair