

**REPORT TO:** LICENSING (SUB) COMMITTEE

**Date of Hearing:** 10 JUNE 2016

**Report of:** Environmental Health and Licensing Manager

**Type of Application:** The application for the VARIATION of a premises licence in respect of HOLE IN WALL, LITTLE CASTLE, EXETER, EX4 3PX under the relevant legislation.

**Legislation:** Licensing Act 2003

**Ward Application Refers to:**

**Applicant:** George Sloan

**Premises Address:** Hole in the Wall, Little Castle Street, EXETER, EX4 3AN

**1. What is the report about?**

1.1 An application has been received from George Sloan, Timepiece Limited for the VARIATION of a premises licence. The variation is for an extension to the downstairs bar only, it is proposed that this will be a Jazz bar for members only. The licensable activity subject to the variation is the supply of alcohol, it is proposed to increase the availability of alcohol on Friday and Saturdays from 11.00 – 02.00 to 11.00 – 04.00. In an effort to accommodate the proposed variation the applicant has put forward the following condition. The application is attached as Appendix A.

- A designated door supervisor will be on duty when the basement bar is open, this will include the inside and outside area.

**2. Are there any representations?**

2.1 Representations have been received from the Police with recommended conditions in line the licensing objective of the prevention of crime and disorder, these are listed below:

‘The timings for the Members Jazz Club would run from 11.00 until 04.00 ( with all patrons having left premises by 04.30) and include all licensable activities that currently apply under the premises licence for the Hole in the Wall.

These timings would apply solely to the Jazz Club which would be located in the function room on the ground floor and clearly delineated on a plan submitted with the application.

The timings would apply only when the function room is used as a Members Jazz Club and at no other time or for no other function or activity.

Conditions that would apply specifically to the Members Jazz Club room would include surround CCTV and the employment of door staff and can be found on the existing licence for the Hole in the Wall and would apply to the Members Jazz Club.

A full list of Jazz Club members (names and addresses) would be maintained and be made available to the Police and the Council on request.

There would be a final entry time to the Jazz Club of 03.00 which would be clearly communicated to all Jazz Club Members and signage requesting patrons to leave the premises quietly.'

Other representations from Environmental Health and from Cllr Keith Owen have been received regarding possible issues regarding Public Nuisance. These are attached as Appendix B.

### **3. Report details:**

- 3.1 The application was advertised on the premises and in the local newspaper in line with above legislation.

### **4. What are the legal aspects?**

- 4.1 The Council's constitution requires that all applications for Premises Licences that receive relevant representations shall be determined by a Licensing Sub-Committee.
- 4.2 The Licensing Sub-Committee are required to have regard to the Statement of Licensing Policy which states in part (paragraph 2.8) that in determining a licence application the Licensing Authority will consider each application on its merits. Licence conditions will be tailored to the individual application and only those appropriate to meet the licensing objectives will be imposed.
- 4.3 The venue is within the cumulative impact zone adopted following consultation with the Police in 2006. The Licensing Sub-Committee are required to have regard to the Statement of Licensing Policy which states in paragraph 11.1 "A saturation of licensed premises can attract customers to the area that has an impact on the surrounding area beyond the control of individual licence holders. The Licensing Authority will take this into account whenever it receives representations about cumulative impact on the licensing objectives if warranted within the specific area identified in the Cumulative Impact area".
- 4.4 The Licensing Sub-Committee are required to have regard to the Official Guidance issued under section 182 of the Licensing Act 2003 revised March 2015 is relevant. The official guidance relating to crime and disorder and the prevention of public nuisance to which this committee must have regard, is included in the Yellow Committee hand books.
- 4.5 The Licensing Sub-Committee must have regard to the relevant representations made; the evidence provided in relation to the premises from the parties involved and the evidence it hears, in reaching its decision.

4.6 The Licensing Sub-Committee, having regard to the representation, must take such of the following steps, if any, as it considers appropriate for the promotion of the licensing objectives.

- i) to grant the licence subject to any conditions consistent with the Operating Schedule of the application modified to such extent is appropriate for the promotion of the licensing objectives and any mandatory conditions;
- ii) to exclude a licensable activity from the licence;
- iii) to refuse to specify a person in the licence as the Designated Premises Supervisor; or
- iv) to reject the application.

## **5. Recommendations:**

5.1 The Licensing Sub-Committee are required to identify what steps, if any, need to be taken to determine the application.

## **Environmental Health and Licensing Manager**

### **Local Government (Access to Information) Act 1972 (as amended)**

**Background papers used in compiling this report:-**

None

Contact for enquires:

Democratic Services (Committees)

Room 2.3

01392 265275

## APPENDIX A

### **APPLICATION TO VARY PREMISE LICENSE**

George Sloan has applied to Exeter City Council licensing authority to vary premises licence for the Hole in the Wall, Little Castle Street, Exeter, EX4 3PX.

To extend the sale of alcohol on sale in the basement of the premises only. Friday and Saturday from 2:00 to 4:00

This application can be viewed at the licensing section Exeter city council civic centre Paris Street Exeter EX1 1RQ. Monday to Friday 9 AM to 4 PM

Representations must be made in writing to the licensing section of your dress above by Monday 23rd May 2016

It is an offence knowingly or recklessly to make false statement in connection with an application and the maximum fine of £5000 for which a person is liable on summary conviction for the offence.

## APPENDIX B

Representation received from Devon & Cornwall Police via email 19 May 2016

Dear Team

### **Variation – Hole in the Wall**

Please accept this email as a Police representation re the above premises licence variation on the grounds that there are currently insufficient steps in place to meet the licensing objectives, namely the prevention of crime and disorder.

I am aware that my colleague John Bean liaised with George Sloan in February 2016, ahead of the application being submitted and an agreement was made that Police would not object, subject to particular conditions.

This representation is made simply to formalise the Police 'objection' so that conditions may be attached to the premises licence. I am aware that the consultation period is shortly to draw to a close and this will be before John Bean returns from a period of leave. As you are aware the agreement John has secured with George Sloan is as follows (and I quote directly from John's email):

***The timings for the Members Jazz Club would run from 11.00am until 04.00am (with all patrons having left the premises by 04.30am) and include all licensable activities that currently apply under the premises licence for the Hole in the Wall.***

***These timings would apply solely to the Jazz Club which would be located in the function room on the ground floor and clearly delineated on a plan submitted with the application.***

***The timings would apply only when the function room is used as a Members Jazz Club and at no other time or for no other function or activity.***

***Conditions that would apply specifically to the Members Jazz Club Room would surround CCTV and the employment of door staff and can be found on the existing licence for the Hole in the Wall and would apply to the Members Jazz Club***

***Also a full list of Jazz Club members (names and addresses) would be maintained and be made available to the Police and Council on request.***

***There would be a final entry time to the Jazz Club of 03.00am which would be clearly communicated to all Jazz Club Members and signage requesting patrons leave the premises quietly.***

***It is probable you may be required to vary the premises opening hours which currently apply to the Hole in the Wall to cover the Members Jazz Club venture.***

Representation received by email from Environmental Health 16 May 2016

Dear Phillippa

As discussed, I would like to object to the application for variation made by Hole in the Wall. We have received complaints recently regarding noise at the back of Hole in the Wall/Timepiece from residents living in Northernhay Place and I'm concerned about the potential for further noise complaints if this variation is made/granted.

I sent the email below to George Sloan asking him to confirm the measures they will be taking to prevent noise. I haven't received a response yet.

Thanks

Claire

Claire Mulgrew  
Environmental Health Officer

Representation Received from Cllr Owen via email 25 April 2016

Hi Phillippa

I have concerns about this application to extend the licensing hours to 4 am. I believe that this is likely to extend the period during the night when residents are disturbed by intoxicated persons passing noisily past their houses, preventing them from having a good night's sleep, thereby creating a public nuisance. Taking into account paragraph 9.2 of Exeter City Council's licensing policy, I believe that the present end time of 2 am should not be extended.

Cllr Keith Owen  
City Councillor for St James  
Portfolio Holder for Health and Place  
Exeter City Council