

Exeter City Council

REPORT TO LICENSING SUB-COMMITTEE HEARING: LICENSING ACT 2003 3/12/2009

APPLICATION: Review of a Premises Licence REPORT BY Principal Licensing Officer

PART I

1. THE APPLICATION

- 1.1 **Applicant** Sgt Neil Harvey
Premises Flying Horse Public House Wonford Exeter
- 1.2 **Application**
- 1.3 To seek a REVIEW of the premises licence under S51 of the Licensing Act 2003, as the licensing objectives relating to the prevention of crime and disorder; prevention of public nuisance and the protection of children from harm are being undermined at the premises. **Pages 5-12**
- 1.3 The application relates to the issues arising at the premises in general and the management of it more specifically. A number of supporting documents have been submitted and are attached; statements from police officers and others have been previously circulated.

PART II

2. RELEVANT REPRESENTATIONS

- 2.1 Representations relating to the review have been received from:
- 2.2 Sgt. Neil Harvey of the Devon and Cornwall Constabulary.
- 2.3 A log of incidents has been received from the Devon and Cornwall Constabulary marked LC/1. These relate to 36 matters arising since September 2008. **pages 13-18**
- 2.4 A further 8 visits to the premises were logged as supervisory; routine or for checking purposes. NB This second list appears to have been included twice. **pages 19-22**

- 2.5 Of these 44 visits incident logs [L10 forms] were submitted in relation to 15 of those incidents. **pages 23-51**
- 2.6 A log of incidents and supporting comments has been received from a resident in the vicinity of the premises. Details of name and address have been removed and the complainant has asked that Cllr Marcel Choules speak to the matter **page 52-55**
- 2.7 A letter to the designated premises supervisor and marked LC/2 is attached. **Page 56**
- 2.8 Documents submitted as LC/3 have been included by the police in the papers submitted. **pages 57-59**
- 2.9 Statements from police officers are included at LC/4 LC/5 **pages 60-63**
- 2.10 The document submitted as LC/6 has been included although it was submitted by a person who does not reside in the vicinity. The submission by Cllr L. Robson complies with the official guidance issued under the Licensing Act 2003. This guidance was very recently reviewed and amended to allow Cllrs to make representations in their own right. **pages 64-65**
- 2.11 Statements from Constable M. Matthews and L. Carlo marked LC7 & LC/8 are attached at **pages 66-70**

All documents previously submitted to the premises Licence holders.

PART III

3. RELEVANT LICENSING POLICY CONSIDERATIONS Licensing Objectives

- 3.1 Because of the generic nature of the application, the statement of Licensing Policy does not provide any specific direction in regard to the matters raised. However in regard to the protection of children there is reference at paragraph 7.1
- 3.2 Paragraph 7.1 states "when deciding whether to limit access to children or not the licensing authority will judge each application on its own individual merits. Examples

which may give rise to concern in respect of children would include premises:

- with a known association with drug taking or dealing
 - where there have been convictions of members of the current staff for serving alcohol to those under 18
 - with a reputation for underage drinking.
- 3.3. Paragraph 14.1 of the policy states “The licensing authority recognises that drug use is not something that is relevant to all licensed premises. However, special conditions may need to be imposed for certain types of venues to try to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. The conditions to be imposed in such cases are taken from the DCMS pool of conditions, which take into account the report “Safer Clubbing” issued by the Home Office. In all cases where these conditions are to be imposed, advice will be taken from the local Drugs Action Team and the Police.
- 3.4. In regard to Public nuisance the Policy states in part at paragraph 17.1 “To promote the licensing objectives applicants for licences for licensable activities will, if the Licensing Authority is engaged through relevant representations, be required to demonstrate the measures they have in place for the prevention of public nuisance. The impact of the licensable activities on people living in the vicinity should not be disproportionate or unreasonable. The prevention of public nuisance can include low-level nuisance affecting a few people living locally as well as a major disturbance affecting the whole community. It may also include the prevention of the reduction of the living and working amenity and environment of the interested parties”

PART IV

4. RELEVANT STATUTORY PROVISIONS AND OFFICIAL GUIDANCE CONSIDERATIONS

- 4.1 Newly issued Official Guidance issued under section 182 of the Licensing Act 2003 covers all the Licensing Objectives raised in the police representations and is attached at **pages 71-78**

PART V

5. OBSERVATIONS

- 5.1 The Committee are asked to determine the application for the Review of the licence issued to the Flying Horse as requested by Sgt Harvey. The Committee is obliged to determine this application with a view to upholding the Licensing Act 2003 objectives, which is in this case, crime and disorder; prevention of public nuisance and the protection of children from harm.
- 5.2 The Committee must have regard to all of the relevant representations made by the parties; the evidence provided in relation to the premises from all the parties involved and the evidence it hears in reaching its decision.
- 5.3 The Committee must take such of the following steps, if any, as it considers necessary for the promotion of the licensing objectives.
 - 5.4 Modify conditions by altering, omitting or adding them;
 - 5.5 Exclude a licensable activity from the licence;
 - 5.6 Remove the Designated Premises Supervisor;
 - 5.7 Suspend the premises Licence (subject to a maximum period of three months).
 - 5.8 Revoke the licence
- 5.9 The Committee should be mindful that in making their decision, whether to modify conditions or to suspend or revoke the licence, it must be necessary to do so to promote the licensing objective relating to the Public safety, not just because it is considered desirable to do so.



Author:
Date:

20-11-09

Principal Licensing Officer
Reference: