

NORTH DEVON COUNCIL

REPORT TO: LICENSING & COMMUNITY SAFETY SUB-COMMITTEE A
DATE: 15th NOVEMBER 2021
TOPIC: DETERMINATION OF APPLICATION FOR A REVIEW OF A PREMISES LICENCE, RUMOURS, 42 BOUTPORT STREET, BARNSTAPLE, DEVON, EX31 1SE.
Report By: LICENSING OFFICER

1. INTRODUCTION

- 1.1 The purpose of this hearing is to determine an application for the review of the premises licence relating to Rumours, 42 Boutport Street, Barnstaple, Devon, EX31 1SE.
- 1.2 An application for review of the premises licence number PLWA0698 under section 51 of the Licensing Act 2003 (“the Act”) was made by Mr Paul Butler, Alcohol Licensing Officer Devon & Cornwall Police on 21st September 2021, (appendix A to this report) on the grounds that the premises are undermining the four Licensing Objectives: (i,ii,iii,iv)
 - i) the prevention of crime and disorder
 - ii) the prevention of public nuisance
 - iii) public safety and
 - iv) protection of children from harm
- 1.3 One additional representation has been received from the following Responsible Authority in support of this review:
 - I. Devon and Somerset Fire Authority (appendix D)
- 1.4 An additional representation in support of this review has also been received from one ‘other person’ (appendix E).

2. RECOMMENDATIONS

2.1 That the Sub Committee:

Considers the request for determination of the application for the review of premises licence for Rumours and additional representations included in appendices A to E of this report together with any oral submissions at the hearing.

In determining the review, the Sub Committee may take any or all of the following actions:-

- i) No action
- ii) Modify the conditions attached to the licence
- iii) Exclude a licensable activity
- iv) Remove the Designated Premises Supervisor
- v) Suspend the Licence for a period not exceeding 3 months
- vi) Revoke the licence

2.2 The conditions of the licence, with the exception of mandatory conditions in annex 1 of the licence, may be modified to alter or omit any of them or to add any new condition, including restricting the times at which licensable activities authorised by the licence can take place.

2.3 The licensing authority may decide that no action is appropriate if it finds that the review does not require it to take any steps that are appropriate to promote the licensing objectives.

3. Reasons for Recommendations

3.1 The recommendations are made so that the Sub-Committee fulfils its duty under section 52 of the Licensing Act 2003 to determine the application for a review of a premises licence.

4. Background

4.1 The relevant premises, Rumours, 42 Boutport Street, Barnstaple, Devon EX31 1SE, was first licensed by the Authority in 2005 under the Licensing Act 2003, following the conversion (Grandfather Rights) from the justices' to Local Authorities (Appendix B).

4.2 The current premises licence holder is Mr Andrew Richards who is also the Designated Premises Licence holder (DPS) and he has been in place since the 21st November 2018.

4.3 The premises is a public house which also holds live and recorded music events. It is situated in Boutport Street, within Barnstaple Town Centre with a mixture of residential and commercial properties. (Location map at appendix F).

4.4 On the 14/12/2020 North Devon Council issued three fixed penalty notices for offences witnessed on the 12/12/2020 for the following offences:-

4.4.1 The Health Protection (Coronavirus, Restrictions) (Obligations and Undertakings) (England) Regulations 2020(as amended) and Public Health (Control of Disease) Act 1984 –

- failed to ensure appropriate distancing maintained between tables occupied by persons of different qualifying groups.
- failed to ensure groups no larger than six from the same bubble/household entered,
- failed to ensure persons form different qualifying groups did not mingle once inside the premises.

4.4.2 The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 and Public Health (Control of Disease) Act 1984

- carried on the business of a bar involving the provision of alcohol and the alcohol was not being served as part of a table meal and the meal was not such as might be expected to be served as part of a breakfast, the main mid-day meal or main evening meal.

4.4.3 The Health Protection (Coronavirus, Collection of Contact Details etc. and Related Requirements) Regulations 2020 (as amended) and Public Health, Control of Disease) Act 1984

- failed to request every member of a group to prove their contact tracing details.

4.5 The premises are licensed for the following activities and during the following times:

| Licensing Activity | Day | Start | Finish |
|--|---|----------------|----------------|
| Performance of live music (indoors) | Sunday to Thursday Friday to Saturday New Year's Eve From the end of permitted hours on New Year's Eve to the start of New Year' Day | 10:00 10:00 | 01:00 01:30 |
| Playing of recorded music (Indoors) | Sunday to Thursday Friday to Saturday New Year's Eve From the end of permitted hours on New Year's Eve to the start of New Year' Day | 10:00 10:00 | 01:00 01:30 |
| Performance of dance (Indoors) | Sunday to Thursday Friday to Saturday New Year's Eve From the end of permitted hours on New Year's Eve to the start of New Year' Day | 10:00 10:00 | 01:00 01:30 |
| Entertainment of a similar description to that falling within E,F,or G (indoors) | Sunday to Thursday Friday to Saturday New Year's Eve From the end of permitted hours on New Year's Eve to the start of New Year' Day | 10:00 10:00 | 01:00 01:30 |
| Late night refreshment (indoors) | Sunday to Thursday Friday to Saturday New Year's Eve From the end of permitted hours on New Year's Eve to the start of New Year' Day | 10:00 10:00 | 01:00 01:30 |
| Supply of alcohol for consumption ON and OFF the premises | Sunday to Thursday Friday to Saturday New Year's Eve From the end of permitted hours on New Year's Eve to the start of New Year' Day | 10:00 10:00 | 01:00 01:30 |

| Licensing Activity | Day | Start | Finish |
|-----------------------------------|---|-------|--------|
| The opening hours of the premises | Sunday to Thursday | 10:00 | 02:00 |
| | Friday to Saturday New Year's Eve From the end of permitted hours on New Year's Eve to the start of New Year' Day | 10:00 | 02:00 |

A copy of the current licence is appended at appendix B.

5 Relevant Representations

5.1 The relevant Licensing Objectives are:

| Licensing Objective | Considered to be breached |
|--------------------------------------|---------------------------|
| Prevention of Public Nuisance | x |
| Public safety | x |
| The prevention of crime and disorder | x |
| Protection of children from home | x |

5.2 Grounds for the application to review the licence submitted by the Devon & Cornwall Constabulary Alcohol Licensing Officer include:

- There has been a serious prevalence of disorder and criminal behaviour on or near the premises between May 2021 and October 2021.
- Police logs submitted as evidence by the Police, identify violence, drug issues, underage drinking emanating both inside and outside the premises.
- Figures supplied in the Police Report provide significant evidence of breaches of Licensing Objectives
- Public safety on or near the premises has been compounded by the lack of management control as evidenced again by police logs.
- Failure by the Licensed Premises Holder to ensure that their own Action Plan has been upheld by premises staff.
- Failure by the Licensed Premises Holder to comply with the required PSP – Problem Solving Profile.
- Failure to provide active and clear presence at the Licensed Premises by the Licensed DPS Mr Andrew Richards and the inappropriate definition of the staff roles “acting DPS” by Anthony Coleman.
- Failure by the Licensed Premises Holder to work with the Police Alcohol Licensing Officer to reduce the crime.

- Lack of engagement by the Licensed Premises Holder to uphold the requirements of the Licensing Objectives.

5.3 Grounds to support the application for review, which have been submitted by Devon and Cornwall Police include (Appendix C Restricted):

- During May 2021 there were eleven Police logs and two crimes associated with the premises.
- During May 2021 the premises accounted for 91.66% of Police Logs for twenty of the Barnstaple licensed premises as identified in Appendix A of the Police submission.
- During June 2021 there were eleven Police logs and four crimes associated with the premises.
- During June 2021 the premises accounted for 47.82% of Police Logs for twenty of the Barnstaple licensed premises as identified in Appendix A of the Police submission.
- During July 2021 there were seven Police logs and three crimes associated with the premises.
- During July 2021 the premises accounted for 58.33% of Police Logs for twenty of the Barnstaple licensed premises as identified in Appendix A of the Police submission.
- During August 2021 there was one Police log associated with the premises.
- During the period between the 1st September 2021 and the 19th October 2021 there were four Police logs associated with the premises and four crimes associated with the premises.
- During September 2021 the premises accounted for 28.5% of Police Logs for twenty of the Barnstaple licensed premises as identified in Appendix A of the Police submission.

5.4 Grounds to support the application to review submitted by Mr Paul Nolan of the Devon & Somerset Fire & Rescue Service include (Appendix D):

- The Fire & Rescue Service have concerns at the level of intoxication reported at the premises which will clearly affect any evacuation in an emergency bearing in mind the premises is on the first floor.
- There is a history of untrained and inexperienced staff working at the premises and there is little faith that all understand and have been trained in the emergency procedures in the event of fire.
- As part of the licence review, I would request sight of any records for the servicing / maintenance of the fire precautions at the premises (fire alarm, fire-fighting equipment, emergency lighting etc) together with a copy of the last periodic electrical inspection.

- Whilst attending an unrelated incident in Boutport Street on 9 July 2021 at 20:00 hrs, it was noted by the officer that there were already quite a few people outside the entrance to Rumours already in a state of intoxication / under the influence of substances. Within the group there were several young people who went in and out of the premises. There was a member of door staff outside but no one appeared to be checking ID. Reading the Police report it is apparent that there have been issues with underage drinking there.

5.5 Grounds to support the application to review submitted by one 'other person' a Mr Nigel G. Angrave. This is contained in Appendix E:

- Underage drinking- the door staff have even been seen socialising outside the premises with intoxicated youngsters who have left the premises.
- Drinks promotions which would appear to be outside licensing arrangements. For example 45 shots for £45 in one purchase.
- Unruly behaviour outside the premises not controlled by the staff. Fights have also been witnessed with one person being seriously injured during the night of 4/5.9.21 resulting in the persons head being struck against a front window and breaking it. The road was closed for some time to enable the emergency services to deal with the incident.
- Customers of the premises have been found urinating at the rear of our premises. We have installed lighting in attempt to prevent such behaviour but it hasn't worked.
- My co-director has witnessed drug dealing outside of the premises. A person dealing in drugs at Rumours also attempted to break into our premises and threaten him & his partner on 9.9.21.

6 RELEVANT LICENSING POLICY CONSIDERATIONS

6.1 The Sub-Committee is entitled to draw upon any of the considerations outlined in its Licensing Policy document. However, the most significant policy considerations appear to be the following:

- Paragraphs 3.2 to 3.2.2 (Crime and Disorder).
- Paragraphs 3.3 to 3.3.2 (Public Safety).
- Paragraphs 3.4 to 3.4.3 (Prevention of Public Nuisance).
- Paragraphs 3.5 to 3.5.2 (Protection of Children from Harm).
- Paragraphs 9.2 to 9.2.7 (Review).

7 RELEVANT STATUTORY GUIDANCE CONSIDERATIONS

- 7.1 The following provisions of the Licensing Act 2003 Act which apply to this section are sections 51 and 52.
- 7.2 These sections detail how a review application should be made and the process which should be followed in determining the application.
- 7.3 The Licensing Act 2003 (Hearings) Regulations must be utilised in determining applications submitted under the Licensing Act.
- 7.4 The Sub-Committee is entitled to draw upon any of the considerations outlined in the Statutory Guidance issued under section 182 of the Licensing Act 2003 and published by the Home Office, April 2018. However, the most significant statutory guidance appears to be in the following:
- Paragraphs 2.1 to 2.6 (Crime and Disorder).
 - Paragraphs 2.7 to 2.14 (Public Safety).
 - Paragraphs 2.15 to 2.19 (Public Nuisance).
 - Paragraphs 2.22 to 2.31 (Protection of Children from Harm).
 - Paragraphs 11.1 to 12.35 (Reviews).

8 Options

- 8.1 The Act at section 52(2) and (3) states that before determining the application, the licensing authority must hold a hearing to consider it and any relevant representations. It must, having regard to the application and any relevant representations, take such steps mentioned in section 52 (4) (if any) as it considers necessary for the promotion of the Licensing Objectives.
- 8.2 The steps referred to in paragraph 8.1 above are:-
- i) To modify the conditions of the licence;
 - ii) To exclude a licensable activity from the scope of the licence;
 - iii) To remove the designated premises supervisor;
 - iv) To suspend the licence for a period not exceeding three months;
 - v) To revoke the licence.

The conditions of the licence, with the exception of mandatory conditions in annex 1 of the licence, may be modified to alter or omit any of them or to add any new condition, including restricting the times at which licensable activities authorised by the licence can take place.

Where the Licensing Sub Committee is minded to modify the conditions of the licence, it may do so either permanently or for a period not exceeding three months.

The licensing authority may decide that no action is appropriate if it finds that the review does not require it to take any steps that are appropriate to promote the licensing objectives.

Any party to the hearing has the right of appeal to North and East Devon Magistrates Court following the determination of the review under section 52 of the Act.

9 BACKGROUND PAPERS

- Licensing Act 2003.
- Amended guidance issued under section 182 of the Licensing Act 2003 (Home Office, April 2018).
- Licensing Act (Hearings) regulations 2005.
- North Devon Council Licensing Act 2003 Statement of Licensing Policy 21.11.18.

10 APPENDICES

Appendix A Application for review

Appendix B Current Premises Licence

Appendix C Devon and Cornwall Police Licensing representation (Restricted)

Appendix D Devon & Somerset Fire & Rescue Service representation

Appendix E Representations submitted by one other person

Appendix F Location Plan

Author: Phil Fitzsimons Licensing Officer

Date: 03 November 2021