

Public Agenda



Please reply to:

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Date: 16 May 2016

Notice of meeting

Licensing Sub-Committee

Date: Tuesday, 24 May 2016

Time: 10.00 am

Place: Council Chamber, Council Offices, Knowle Green, Staines-upon-Thames

To the members of the Licensing Sub-Committee

Councillors:

R.W. Sider BEM (Chairman)

C.B. Barnard

S.A. Dunn

Subject to these councillors being re-appointed to the Licensing Committee at the Annual Council meeting being held on 19 May 2016.

Spelthorne Borough Council, Council Offices, Knowle Green

Staines-upon-Thames TW18 1XB

www.spelthorne.gov.uk customer.services@spelthorne.gov.uk Telephone 01784 451499

AGENDA

Page nos.

1. Disclosures of Interest

To receive any disclosures of interest from members in accordance with the Members' Code of Conduct.

2. To consider an application for a variation to the Premises Licence at The Phoenix, Thames Street, Sunbury-on-Thames, TW16 6AF, in the light of representations

1 - 34

The Report of the Deputy Chief Executive is attached.

A procedure note which explains what happens at a Licensing Sub-Committee, follows.

Licensing Act 2003

Hearing procedure for Licensing Sub-Committee – premises licence applications/variations

	Introductions
1.	The Chairman will open the meeting, introduce members of the Sub-Committee and officers present and explain the nature of the decision to be taken and the procedure to be followed.
2.	The Applicant or their representative will introduce themselves to the Sub-Committee.
3.	Any Responsible Authorities and/or Other Persons will introduce themselves to the Sub-Committee.
	Summary of Application and Representations
4.	The Council's Licensing Manager will outline the application, any relevant representations and highlight any points relevant to the Licensing Authority's Statement of Licensing Policy and statutory guidance. OR summarise the salient points of the report on the agenda.
5.	The Applicant or their representative may ask the Licensing Manager QUESTIONS arising from what he/she has said or relating to the application. (The Applicant will have the opportunity to state his/her case later).
6.	The Responsible Authorities may ask relevant questions of the Council's Licensing Manager.
7.	Any Other Persons may ask relevant questions of the Council's Licensing Manager.
8.	The members of the Sub-Committee may ask relevant questions of the Council's Licensing Manager.
9.	The Council's Licensing Manager may respond to any new issues raised.
	The Applicant's Case
10.	The Applicant or their representative will present their case.*
11.	The Responsible Authorities may ask relevant questions of the Applicant or their representative.
12.	Any Other Persons may ask relevant questions of the Applicant or their representative.

13.	The members of the Sub-Committee may ask relevant questions of the Applicant or their representative.
14.	The Applicant may respond to any new issues raised.
	The Responsible Authorities case
15.	The Responsible Authorities will present their case, in turn.*
16.	The Applicant or their representative may ask relevant questions of the Responsible Authorities.
17.	Any Other Persons may ask relevant questions of the Responsible Authorities.
18.	The members of the Sub-Committee may ask relevant questions of the Responsible Authorities.
19.	The Responsible Authorities may respond to any new issues raised.
	The Other Persons Case
20.	Any Other Persons will present their case, in turn.*
21.	The Applicant or their representative may ask relevant questions of the Other Persons.
22.	The Responsible Authorities may ask relevant questions of the Other Persons.
23.	The members of the Sub-Committee may ask relevant questions of the Other Persons.
24.	The Other Persons may respond to any new issues raised.
	Summing Up
25.	The Chairman will invite the Licensing Manager to clarify any technical points.
26.	The Chairman will invite the Other Persons to briefly summarise their case if they so wish.
27.	The Chairman will invite Responsible Authorities to briefly summarise their case if they so wish.
28.	The Chairman will invite the Applicant or their representative to briefly summarise their case if they so wish.
29.	The Chairman will then ask all parties if they are satisfied they have said all they wish to.

	Decision
30.	The members of the Sub-Committee will retire to reach a decision in private, accompanied by the Council's legal officer and Committee Manager.
31.	Members of the Sub-Committee return. The Chairman will announce the decision of the Sub-Committee with (summary or full) reasons for the decision.
32.	Meeting closed.
33.	The Council's legal officer will remain in the room to assist all parties should they require clarification of the decision and/or next steps.

GUIDANCE NOTES

*The Licensing Authority will allow the parties an equal maximum period of time in which to address the Sub-Committee, but request that all parties keep points pertinent and the discussion moving in the interests of cost and efficiency. However, the overriding principle for the Licensing Authority will be to ensure that all parties receive a fair hearing.

- (a) Cross examination of parties is at the discretion of the Sub-Committee.
- (b) When the Applicant questions the Licensing Manager or any other party he/she should not go into the merits of his/her case as he/she will have an opportunity to present it at Stage 10. He/she should only ask questions relating to what the Licensing Manager or other person has said or relating to the application as a whole.
- (c) The Applicant or any other party may be represented by a friend or a professional person to speak on his/her behalf who will follow the same procedure as described above and who may call the Applicant as a witness.
- (d) The order or proceedings may be varied by the Chairman if he/she thinks that it is necessary to do so in the interests of affording the Applicant a fair hearing or in order to take into account all relevant considerations.
- (e) If, after the Sub-Committee has withdrawn to make their decision, they decide that they need to ask a question of any of the parties involved in the proceedings or to clarify any matter then they shall do so in the presence of all parties.
- (f) Members of the Sub-Committee must be present throughout the hearing and must not communicate with any party involved in the proceedings except for when they are in the presence of all of the parties and the remainder of the Sub-Committee.

Licensing Sub-Committee

24/05/2016



Subject	Application for a Premises Licence full variation for The Phoenix Public House, Thames Street, Sunbury-on-Thames		
Purpose	For determination		
Report of	Deputy Chief Executive	Ward	Sunbury East
Contact	Dawn Morrison, Licensing Manager, (01784) 446432		

Description and Location	The Phoenix is located in Thames Street, Sunbury, and is attached to and surrounded by residential dwellings. The pub garden backs onto the River Thames. Location plan is at Appendix A .
The Application	<p>Full variation application:</p> <p>(1) to vary the permitted hours for the sale of alcohol from the outside bar so that it is 1100-2200 7 days a week;</p> <p>(2) To remove condition 1 under 'Protection of Children from Harm';</p> <p>(3) To amend condition 1 under 'Conditions attached after a hearing by the licensing authority March 2010'.</p> <p>An extract of the relevant pages from the application form and a plan showing the proposed outside bar is attached at Appendix B.</p>
Representations	Relevant representations were received from nine residents and these are attached at Appendix D .
Options	<p>The Sub-Committee is asked to consider the application for the variation of a premises licence on its merits.</p> <p>Having had regard to the representations, the Sub-Committee must decide on one or more of the following options as it considers appropriate for the promotion of the licensing objectives:</p> <ul style="list-style-type: none">▪ To grant the application subject only to such conditions as are consistent with the operating schedule and the mandatory conditions; or▪ To grant the application and modify the conditions of the licence, by alteration, addition or omission or▪ To reject the whole or part of the application.

1. Background

- 1.1 The premises are located at 26–28 Thames Street, Sunbury, with a beer garden opening onto the River Thames. It is surrounded, on both sides, by residential properties.
- 1.2 The premises was issued a licence under the Licensing Act 2003 when the Act came into force in 2005. The current Premises Licence is attached at **Appendix C**.
- 1.3 The current licence permits the sale of alcohol on Monday to Saturday: 11am to 11pm and on Sunday: 11am to 10.30pm. The outside bar permits the sale of alcohol between the hours of 11am and 5pm on Saturdays, Sundays and days listed on the licence as allowing “seasonal variations”. Other than restrictions on the use of the outdoor bar, there are no restrictions on the use of the beer garden on the current Premises Licence.
- 1.4 The current licence also restricts regulated entertainment to 12 occasions per year on Friday and Saturday (and days on which there is a seasonal variation for the sale of alcohol) from **8pm – 11pm**.
- 1.5 There have been two full variation applications since the original premises licence was issued: one to permit structural alterations which was granted in the absence of representations, and another to permit later licensing hours. The latter was granted by a Licensing Sub-Committee on 22 April 2008, subject to modification by amendment of proposed hours and addition of conditions. The only change to hours that the Sub-Committee agreed to, in terms of the times permitted for the sale of alcohol, was for certain seasonal dates.
- 1.6 The licence was transferred to Mr Nigel Hunt in February 2009.
- 1.7 There was a review of the licence brought by Surrey Police in February 2010, following which additional conditions were added to the licence, one of which the current application is seeking to remove.
- 1.8 The licence transferred to Brakspear & Sons Ltd and Gary Fearn was appointed as Designated Premises Supervisor (DPS) in August 2012.
- 1.9 Between August 2012 and October 2015, there were numerous complaints and incidents while Gary Fearn was DPS. It is clear that the pub suffered from poor, and at times irresponsible, management during the time Gary Fearn was in post. A review of the licence was avoided because the licence holder was working with the licensing team and other responsible authorities and doing all in their power to terminate the contract with Mr Fearn. Although this took longer than we had all hoped, we were satisfied that the legal channels were being pursued as quickly as possible.
- 1.10 The current DPS, Simon Bailey, was appointed DPS in November 2015.
- 1.11 Since Simon Bailey’s appointment, there has been one incident relating to crime and disorder. Neighbouring residents have continued to raise concerns about the use of the garden.
- 1.12 Due to concerns about the potential for noise during a leaving party for Gary Fearn over the weekend of the 31st October 2015, the Council served a notice under Section 80 of the Environmental Protection Act 1990 on W H Brakspear and Sons Ltd, and Gary Fearn. The Notice was served on the grounds that the

Council was satisfied of the likely occurrence of noise amounting to a statutory nuisance, and had the following requirements:

- To exercise effective control over the volume of shouting, electrically amplified music and voices so as not to be a nuisance to neighbouring domestic premises.
- Cease the use of the beer garden after 21:00 hours, every day

1.13 The Notice became effective on 29 October 2015, was not appealed and remains valid.

1.14 Due to concerns of safety for smokers having nowhere to go after the garden closed at 21.00hrs, other than the very narrow pavement at the front of the premises, the Environmental Health department came to a 'voluntary' agreement with W H Brakspear and Sons Ltd and Simon Bailey, DPS to permit use of the beer garden after 21.00hrs to a maximum of 4 persons for the purposes of people smoking. No other use is permitted.

1.15 Since the restricted use of the beer garden was agreed on 18 November 2015, residents have reported at least five incidents where the agreement to restrict the numbers in the beer garden was not being adhered to.

1.16 Members should note that this agreement to restrict the number of smokers in the garden after 21.00hrs, was an informal compromise to manage the safety of smokers and is therefore unenforceable.

2. Application Summary

2.1 The current premises licence holder, WH Brakspear and Sons Ltd., The Bull Courtyard, Bell Street, Henley on Thames, RG9 2BA has made an application to vary the licence:

1. To vary the permitted hours for the sale of alcohol from the outside bar to be 11.00am - 10.00pm 7 days a week.
2. To remove condition 1 under "Protection of children from harm" which reads "No children to be allowed at the bar".
3. To amend condition 1 under "Conditions attached after a hearing by the licensing authority March 2010" such that it states "All bar staff are to be trained in relation to licensing law in relation to the licensing objectives, age restrictions and the terms and conditions of the Premises Licence. A record of this training will be kept at the premises by the DPS and refresher training on these issues will be delivered not less than every 6 months. The records of the initial training and refresher will be available for inspection by a Responsible Authority on request".

2.2 The required notices have been displayed and published in a local newspaper (The Staines Informer, dated 7 April 2016).

3. Promotion of the Licensing Objectives

3.1 The Licensing Objectives together with examples from Government Guidance are set out below for information:

Prevention of crime and disorder

- Criminal behaviour on, or directly attributable to, the premises.
- Anti-social behaviour on, or directly attributable to, the premises.

Public safety

- E.g. overcrowding, fire safety, emergency exits and anything related to the safety of the public within the premises.

Prevention of public nuisance

- Noise/light or odour nuisance
- Litter

Protection of children from harm

- Including moral harm from unsuitable entertainment and also allowing underage persons to buy and consume alcohol

3.2 Section P of the application form, at **Appendix B**, details the proposed steps to be taken to promote the licensing objectives. Should the licence be granted, these will be translated, where appropriate for the promotion of the licensing objectives, into enforceable conditions which will be attached to the licence.

4. Representations

4.1 i) Representations from Responsible Authorities

No representations were received from any responsible authorities. However, Surrey Police submitted a letter of support (**Appendix E**) and Environmental Health submitted a note of facts which have informed this report.

ii) Representations from 'other persons'

Nine relevant representations have been received from other persons and are attached at **Appendix D**.

4.2 The grounds for objection are self-explanatory but are mainly in relation to increased potential for disturbances from people in the garden and a reported inability to manage the current restrictions as explained above.

5. Planning permissions

5.1 A planning application which had been submitted on 11 March 2016 (which some representations may allude to) was withdrawn on 21 April 2016.

6. Licensing Policy

6.1 The following sections of the Council's Licensing Policy are relevant.

- Section 8 gives advice on appropriate and proportionate use of conditions
- 24.7.1 in relation to noise

- 24.7.2 in relation to smoke free legislation and outside areas

7. National Guidance

7.1 The following sections of the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 are relevant in the consideration of this application:

- 2.16 – refers to measures such as limiting the use of a pub garden after a certain time
- 15.42 – refers to live or recorded music in pub gardens
- 15.52 – refers to conditions

To assist, these sections have been copied and are attached at **Appendix F**.

8. Making a decision

8.1 In making its decision the Sub-Committee must promote the licensing objectives only, taking into account National Guidance and Spelthorne's Statement of Licensing Policy.

8.2 The Sub-Committee must give reasons for its decision.

8.3 Conditions on licences must:

- be precise and enforceable;
- be unambiguous;
- not duplicate other statutory provisions;
- be clear in what they intend to achieve; and,
- be appropriate, proportionate and justifiable.

8.4 It is important in considering the promotion of the licensing objective on prevention of public nuisance, that the Sub-Committee focuses on any disproportionate or unreasonable effect the licensable activities at the premises, have on persons living and working in the area around the premises.

8.5 In determining the application, the Sub-Committee will need to consider whether there is actual evidence of problems in relation to the licensing objectives at this premises. Where the representations are unable to provide evidence of observed problems, as in the case of a new licence application, the Sub-Committee should be convinced that there is a very real threat of the fears or the dangers described in the representations actually occurring, before applying any conditions to address such fears or dangers.

Appendices:

Appendix A – Location Plan

Appendix B – Application

Appendix C – Current Premises Licence

Appendix D – Representations from other persons

Appendix E – Letter of support from Surrey Police

Appendix F – Extracts from National Guidance

Location Map - The Phoenix, Thames Street, Sunbury-on-Thames



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Spelthorne
Application to vary a premises licence
Licensing Act 2003

For help contact
 environmental.health.commercial@spelthorne.gov.uk
 Telephone: 01784 444202

* required information

Section 1 of 17

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

VC/p42387/68

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

W H Brakspear & Sons Ltd

* Family name

W H Brakspear & Sons Ltd

* E-mail

v.caress@popall.co.uk

Main telephone number

Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

- Applying as a business or organisation, including as a sole trader
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

* Is the applicant's business registered in the UK with Companies House?

Yes No

* Registration number

46656

* Business name

W H Brakspear & Sons Ltd

If the applicant's business is registered, use its registered name.

* VAT number

GB

Not Known

Put "none" if the applicant is not registered for VAT.

* Legal status

Private Limited Company

*Continued from previous page...** Your position in the business Home country

The country where the headquarters of your business is located.

Agent Business Address

If you have one, this should be your official address - that is an address required of you by law for receiving communications.

* Building number or name * Street District * City or town County or administrative area * Postcode * Country **Section 2 of 17****APPLICATION DETAILS**

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

 Address OS map reference Description
Postal Address Of PremisesBuilding number or name Street District City or town County or administrative area Postcode Country **Premises Contact Details**Telephone number

Continued from previous page...

Non-domestic rateable
value of premises (£)

52,750

Section 3 of 17**VARIATION**

Do you want the proposed variation to have effect as soon as possible? Yes No

Do you want the proposed variation to have effect in relation to the introduction of the late night levy?

Yes No

You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable to the late night levy.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

Licensed Premises

1. To vary the permitted hours for the sale of alcohol from the outside bar so that it is 11.00am - 22.00pm 7 days a week.
2. To remove condition 1 under "Protection of children from harm" which reads "No children to be allowed at the bar".
3. To amend condition 1 under "Conditions attached after a hearing by the licensing authority March 2010" such that it states "All bar staff are to be trained in relation to licensing law in relation to the licensing objectives, age restrictions and the terms and conditions of the Premises Licence. A record of this training will be kept at the premises by the DPS and refresher training on these issues will be delivered not less than every 6 months. The records of the initial training and refresher will be available for inspection by a Responsible Authority on request".

All other activities, permitted hours and opening hours to remain as existing.

Section 4 of 17**PROVISION OF PLAYS**

Will the schedule to provide plays be subject to change if this application to vary is successful?

Yes No

Section 5 of 17**PROVISION OF FILMS**

Will the schedule to provide films be subject to change if this application to vary is successful?

<i>Continued from previous page...</i>	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Section 6 of 17		
PROVISION OF INDOOR SPORTING EVENTS		
Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
Section 7 of 17		
PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS		
Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
Section 8 of 17		
PROVISION OF LIVE MUSIC		
Will the schedule to provide live music be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
Section 9 of 17		
PROVISION OF RECORDED MUSIC		
Will the schedule to provide recorded music be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
Section 10 of 17		
PROVISION OF PERFORMANCES OF DANCE		
Will the schedule to provide performances of dance be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
Section 11 of 17		
PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE		
Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
Section 12 of 17		
PROVISION OF LATE NIGHT REFRESHMENT		
Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		

Continued from previous page...

Section 13 of 17

SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

Yes No

Standard Days And Timings

MONDAY

Start End Start End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start End Start End

WEDNESDAY

Start End Start End

THURSDAY

Start End Start End

FRIDAY

Start End Start End

SATURDAY

Start End Start End

SUNDAY

Start End Start End

Will the sale of alcohol be for consumption?

On the premises Off the premises Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations.

Continued from previous page...

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Please note there is no change to the standard hours, these remain as existing.

The variation application will only vary the times for the sale of alcohol from the outside bar, which will be varied so that alcohol is permitted from the outside bar from 11.00am until 22.00pm 7 days a week.

As existing - no change for seasonal variations.

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

As existing- no change

Section 14 of 17

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

None

Section 15 of 17

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

Continued from previous page...

THURSDAY

Start End

Start End

FRIDAY

Start End

Start End

SATURDAY

Start End

Start End

SUNDAY

Start End

Start End

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

No change as existing

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

No change as existing

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

Condition 1 under protection of children from harm and amendment to condition 1 under conditions attached after a hearing by the licensing authority March 2010.

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

Continued from previous page...

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

Licence misplaced

Section 16 of 17

LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

This is an application to vary the Premises Licence by Brakspear's.

There is a history to these premises involving the previous tenant, Gary Fearn, who did not run the premises particularly well. This is accepted by all.

Brakspear's, as the Landlord and Premises Licence Holder, terminated Mr. Ferns relationship and he left the premises several months ago.

There is a new operator, Simon Bailey of The Authentic Pub Company, who is responsible. There has been investment by Brakspear's in a refurbishment of the premises with the intention of making them more attractive to diners and families in particular.

Both Brakspear's and Simon Bailey are aware of the history of the premises and understand the sensitivity of the residents' concerns and in particular in relation to the outside area and are committed to working with them as far as possible.

The variation application is to support the encouragement of children to enter the premises and to relax the training requirements which were imposed following a review in 2010.

The extended use of the bar in the garden makes it more convenient for customers out there but also provides greater supervision of that area by management and staff, so is regarded as very much promoting the licensing objectives.

The applicant has briefly discussed the application with the Licensing Department and wishes to meet the relevant Responsible Authorities to discuss its proposal for the premises during the consultation period.

b) The prevention of crime and disorder

see box a) above

c) Public safety

see box a) above

d) The prevention of public nuisance

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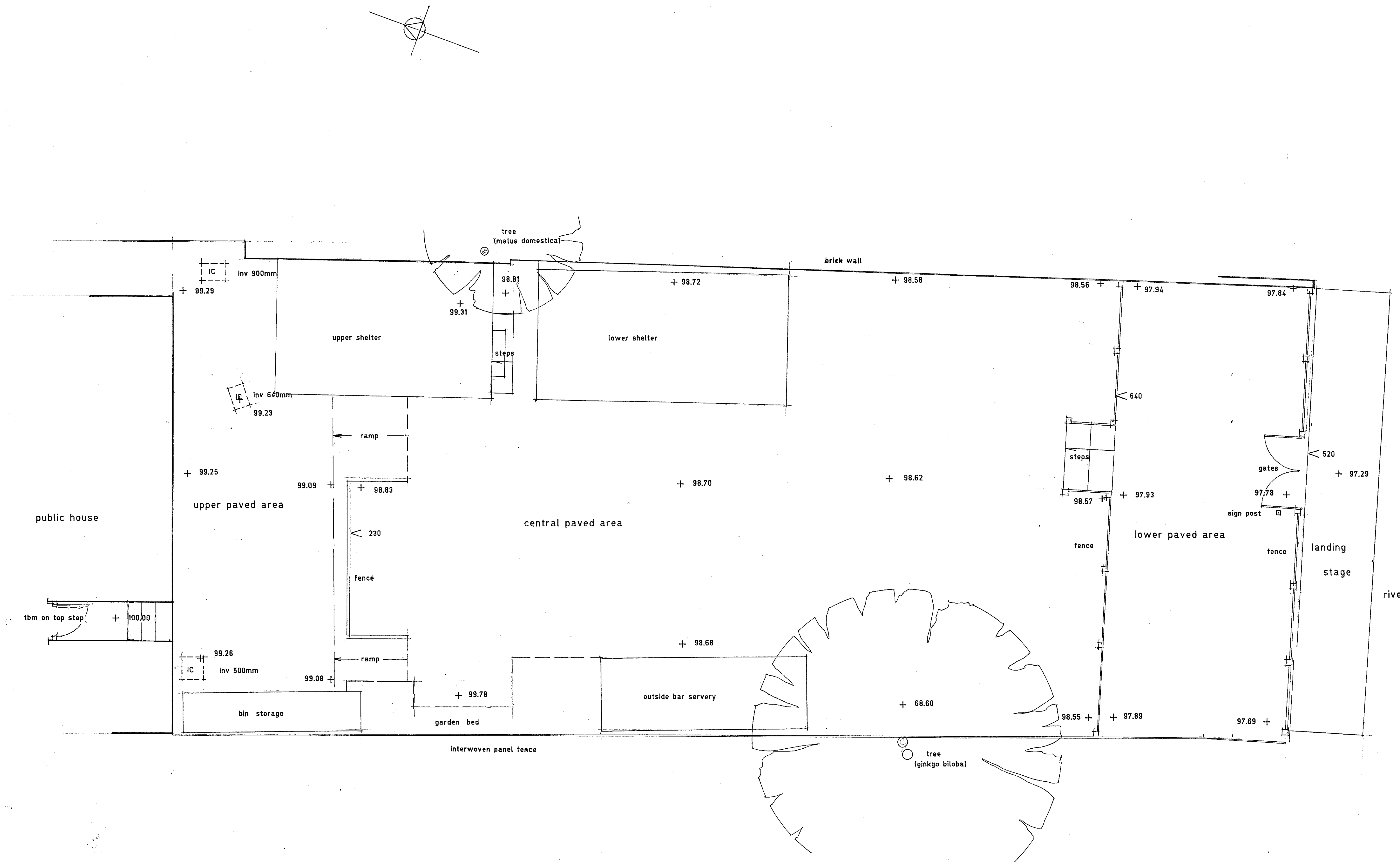
see box a) above

e) The protection of children from harm

see box a) above

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NOTES:
All dimensions must be checked on site and not scaled from this drawing.



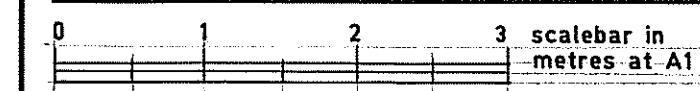
A	Date	Revisions

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Client
WH Brakspear and Sons Ltd

Job Title
The Phoenix
26 28 Thames Street
Sunbury on Thames
TW16 6AF

Drawing Title
external trading area



Scale 1 : 50

Date 24 03 2016 Drawn by APV

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PREMISES LICENCE

Premises licence number 05/00614/LAPRE
Issue Date 17 August 2012
Latest Revision Date 30 November 2015

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description			
The Phoenix 26/28 Thames Street			
Post town	Sunbury-on-Thames	Post code	TW16 6AF
Telephone number	01932 785358		

Licensable activities authorised by the licence
Sale and supply of alcohol; Provision of regulated entertainment and of entertainment facilities.

The times the licence authorises the carrying out of licensable activities
Sale of alcohol
Monday to Saturday: 11.00 to 23.00 Sunday: 11.00 to 22.30
Sale of alcohol from the outside bar
Saturday and Sunday and days on which there is a seasonal variation for the sale of alcohol: 11.00 to 17.00
Regulated entertainment of live music; provision of facilities for making music:
Friday and Saturday (and days on which there is a seasonal variation for the sale of alcohol): 8.00pm – 23.00 (Restricted to 12 occasions in the calendar year)
Non-standard Hours and Seasonal Variations: Sale of alcohol Christmas Eve, Christmas Day, Boxing Day, Good Friday, Saturday and Sunday following Good Friday, Easter Monday, Saturday and Sunday before Whitsun and August Bank Holidays, St Patrick's Day: finish 1 hour later than standard timings. New Year's Eve finish 2 hours later than standard timings.

The opening hours of the premises
Monday to Saturday 11.00 to 23.30; Sunday 11.00 to 23.00 Non-standard Hours and Seasonal Variations: premises to close half an hour after the finish of sale of alcohol on the above occasions.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

For consumption on and off the premises

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

W H Brakspear & Sons Ltd
The Bull Courtyard
Bell Street
Henley-on-Thames
RG9 2BA

Registered number of holder, for example company number, charity number (where applicable)

46656

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Simon Bailey,
The Bell Inn,
8 Thames Street,
Hampton
TW12 2EA

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

London Borough of Richmond - Personal Licence No: 27434

Signed _____

Deputy Chief Executive

Dated 30 November 2015

Annex 1 - Mandatory conditions**Mandatory Condition: where a premises licence authorises the supply of alcohol:**

1. No supply of alcohol may be made under the Premises licence-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Licensing Conditions**The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014**

(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3.

- 1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- 2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- 3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

4. The responsible person must ensure that-
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplies having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whiskey: 25ml or 35ml; and
 - (iii) still wine in a glass: 125ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

**The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014
(Below Cost Selling Order)**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
 - (b) “permitted price” is the price found by applying the formula:

$$P = D + (D \times V)$$

where—

P is the permitted price,

D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(7).

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Mandatory Condition: door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority.

2. But nothing in subsection 1. requires such a condition to be imposed-
 - a) In respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films), or
 - b) In respect of premises in relation to –
 - I. Any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising films or under a gaming licence, or
 - II. Any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act.

For the purposes of this section, “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and paragraph 8(5) of that Schedule (interpretation of references to and occasion) applies as it applies in relation to paragraph 8 of that Schedule

Annex 2 - Conditions consistent with the Operating Schedule

The Prevention of Crime and Disorder

1. Premises will maintain active membership of pubwatch and adhere to the pubwatch rules
2. Door supervisors shall be employed for annual river festival or if necessary and in accordance with a risk assessment
3. A proof of age scheme shall be maintained and records kept of those who have been refused due to age. Staff shall be trained in checking ID
4. An anti drugs policy shall be in place, backed by staff training and liaison with Surrey Police if necessary

Public Safety

1. It shall be a pre-requisite for musicians providing live music that a Residual Current Device (RCD) shall be provided to protect the electrical supply to entertainers’ equipment, including microphones, as described in “Electrical Safety at Places of Entertainment” (G550)

Public Nuisance

1. Notices shall be displayed in appropriate locations asking patrons to leave quietly
2. There shall be a commitment to attend residents’ meetings if required to do so
3. Waste and bottles shall not be removed to external bins between 20.00 and 08.00 the next day
4. Staff to check area in the vicinity of the pub for any rubbish and remove it
5. Staff to check immediate area to check live music levels and adjust if found to be too loud
6. Doors and windows shall be shut during live music entertainment except for customer access

The Protection of children from harm

1. No children to be allowed at the bar
2. It will be requested that children are supervised in the garden
3. Proof of age policy shall be in place
4. Any cigarette and gaming machines shall be in a position that allows them to be easily supervised by staff

Annex 3 - Conditions attached after a hearing by the licensing authority April 2008

1. Regulated entertainment to take place inside only with windows and doors closed so as to prevent noise to escape, and doors only to open to allow usual access and egress.
2. Incidental background music to be confined to inside the premises. (Though we note that the applicant and the interested parties may well come to an accommodation about this).
3. Notices to be placed in prominent places internally to provide phone numbers of local taxi firms.

4. No beverages in open containers to be taken off the premises.

Conditions attached after a hearing by the licensing authority March 2010

1. All bar staff to be fully trained in the licensing objectives including the terms of the premises licence including attending the National Certificate Personal Licence Holder Level 2 by the end of May 2010. All new bar staff who are recruited will attend the National Certificate Personal Licence Holder Level 2 within 6 weeks of them starting working. The ongoing staff training shall include identification of anti-social or unusual behaviour to adopt best practice and to adhere to the Portman Group guidance on drinks' strategy. Records of such training shall be kept at the premises and available for inspection by any Responsible Authority on request.
2. All incidents of crime and disorder will be reported to the Police and recorded in the premises incident book. In relation to all incidents of crime or disorder, all staff including the premises licence holder and Designated Premises Supervisor shall give full and unequivocal support to the Police in the investigation of incidents, including (where required by the Police) the provision of witness statements at the time of the incident and where applicable to share the information at Pubwatch meetings and nominate persons for a Pubwatch ban.
3. There will be sufficient staff on duty in the areas licensed for the provision of licensable activities to both deal with customers and report apparent crime offences to Police.
4. The CCTV system installed at the premises must cover the entire interior area licensed for the provision of licensable activities and the exterior entrance area. The recordings must be retained for a minimum period of 7 days and there will be a member of management on the premises at all times fully trained and competent in the operation of the system and able to produce a copy (immediately on demand) of footage to Police, Licensing Authority, Fire and Rescue Officers or Officers of any other statutory body making a lawful request for a copy. A paper copy of staff training records confirming such training will be kept on the premises and produced to offers of responsible authorities upon demand. Lighting in all areas shall be sufficient to result in good quality images being recorded by the CCTV system. "Good" quality images will be defined by the Police Crime Reduction Officer. The system must be tested in accordance with the Surrey Police Operational Requirement for Closed Circuit Television (CCTV) within Licensed Stores and General Premises Security (and any successor policy) including the daily checks therein. Any failures or breakages of CCTV equipment is to be reported as soon as practicable to the Police and Licensing Authority (and in any event this is to be done within 24 hours of the failure/ breakage) and steps are to be taken as soon as practicable to ensure that repairs are carried out and the equipment returned to full function.

Annex 4 – Plans

Attached

From: "Clark, Jacquie 9143" <Jacquie.Clark@surrey.pnn.police.uk>
Date: 29 Apr 2016 12:04
Subject: RE: The Phoenix Public House Thames Street Response
To: "Morrison, Dawn" <D.Morrison@spelthorne.gov.uk>
Cc:

Hi Dawn,

Surrey Police have carefully considered this application and will not be submitting an objection under the licensing objective of crime and disorder.

Since the new DPS took over on the 6th November 2015 we have only had one call regarding an incident linked to this premises. This call was received on the 14th November 2015 at 18:38 hours, so very soon after he took over and was a call from staff re a fight outside the premises. Police arrived at 18:52 hours but the persons had left.

I met with Mr Bailey the DPS on the 25th April 2016, along with Trading Standards to talk through the application with him.

At present with the layout of the pub, staff behind the bar cannot see the garden and the garden is covered by CCTV but the monitor is located upstairs in the manager's office. With a bar outside there will be staff in the garden able to monitor and deal with any issues in the garden that may occur during the requested hours and be a visible presence. This will also include being there to deal with non-customers who try to moor and use the garden to consume their own food and drink. As mentioned the garden is currently monitored by CCTV but it is their intention to upgrade this, in doing so I did request they take into account any open parasols. Whilst at the premises I noted in their incident book there was an entry that referred to customers being loud in the garden and that staff had intervened which demonstrates that they are ensuring that their premises does not have an adverse effect on the local neighbourhood. The removal of the condition "No children to be allowed at the bar" is because they want the premises to be a family pub where families including the children can come to eat. The location of the premises with only a very narrow width of pavement outside is a factor as to why the customers smoke in the garden rather than outside the premises, as is common at most pubs.

I also consulted with the Neighbourhood Sgt re this application and on the 15th April 2016 Sgt Parish 2895 advised me he had no issues with this application.

Kind Regards
Jacquie Clark 9143
Licensing Enforcement Officer
Community Safety Team Eastern and Northern
Surrey Police

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Extracts from the Government's National Guidance

The following sections of the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 are relevant in the consideration of this application:

- 2.16 – refers to measures such as limiting the use of a pub garden after a certain time
- 15.42 – refers to live or recorded music in pub gardens
- 15.52 – refers to conditions

Limiting the use of a pub garden after a certain time

2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

Live or recorded music in pub gardens

15.42 Beer gardens are often included as part of a premises licence or club premises certificate. Live amplified music that takes place in a beer garden is exempt from licensing requirements, provided the beer garden is included in the licence or certificate applying to the relevant licensed premises, and the performance takes place between 08.00 and 23.00 on the same day before an audience of 500 people or fewer.

Conditions relating to other non-licensable activities

15.52 If appropriate for the promotion of the licensing objectives, and if there is a link to remaining licensable activities, conditions that relate to non-licensable activities can be added to or altered on that premises licence or club premises certificate at review following problems occurring at the premises. This has been a feature of licence conditions since the 2003 Act came into force. A relevant example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, could create a genuine risk to the promotion of the licensing objectives.

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