

Public

Minutes of the Licensing Sub-Committee 2 October 2017

Present:

Councillor R.W. Sider BEM (Chairman)

Councillors M.M. Attewell and S.A. Dunn

In attendance for the applicant:

Mrs and Mrs J. Stevens

Mrs S. Shaw

Ms F. Colquhoun

In attendance for the Respondent

Mr D. Whitehead – representative

Mr R. Singh – Director of Soul Curry Ltd (Premises Licence Holder)

Mrs S. Singh – Designated Premises Supervisor

Other Parties in attendance:

Mr M. Lewis – on behalf of Ei Group plc (as an observer)

Responsible Authorities in attendance:

Mr L. Spearpoint, Environmental Health Officer

In attendance for the local licensing authority:

Mr R. Thomas – Licensing Enforcement Officer

541/17 Disclosures of Interest

There were none.

542/17 To consider an application for the review of the Premises Licence at Jolly Butcher public house, 174 Kingston Road, Staines-upon-Thames TW181PE

The Chairman introduced members and officers present and welcomed everyone to the meeting.

The Chairman asked the applicants, responsible authority and respondent to introduce themselves. He then explained the procedure to be followed at the hearing.

The Council's Licensing Enforcement Officer summarised the application which was set out in full in the report of the Deputy Chief Executive.

With the consent of all parties, a photo showing an external view of the Premises and a Noise Management Plan was circulated by the respondent's representative during the hearing.

The hearing continued in accordance with the procedure.

Having heard the evidence presented, the Sub-Committee retired to consider and determine the application, having regard to the licensing objectives on prevention of crime and disorder and prevention of public nuisance.

Upon reconvening, the Chairman gave the Sub-Committee's decision.

The full decision with reasons would be notified to the applicant and other parties within five working days of the hearing.

Resolved that the Premises Licence at the Jolly Butcher, 174 Kingston Road, Staines-upon-Thames TW18 1PE, be subject to modification by the addition of conditions, as set out in full in the attached Decision Notice



SPELTHORNE BOROUGH COUNCIL

DECISION NOTICE

in accordance with the LICENSING ACT 2003 s.52

Licensing Sub-Committee – 2 October 2017

Application for Review – Mr and Mrs J. Stevens, Mr J. and Mrs S. Shaw and Ms F. Colquhoun

In respect of - The Jolly Butcher Public House, 174 Kingston Road, Staines-upon-Thames

SUB-COMMITTEE DECISION WITH REASONS

Modification of conditions of the Premises Licence

With effect from the end of the period given for appealing against the decision or, if the decision is appealed against, the date on which the appeal is disposed of.

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1. This Sub-Committee has before it an application for Review of the Premises Licence at the Jolly Butcher Public House, 174 Kingston Road, Staines-upon-Thames. The Review is brought by Mr & Mrs Stevens, Mr & Mrs Shaw and Ms Colquhoun.
 2. The Respondent is Soul Curry Ltd which is the Premises License Holder at the Jolly Butcher.

ATTENDANCE

3. A number of people have attended the Sub-Committee hearing this morning to make representations. They are:
 - a. Mr & Mrs J. Stevens, Mrs Shaw and Ms Colquhoun – Applicants for the Review

- b. Mr R. Singh – Director of Soul Curry Ltd, the Premises License Holder
- c. Mr David Whitehead – representative for Soul Curry Ltd
- d. Mrs S. Singh – Designated Premises Supervisor
- e. Responsible authorities:
 - Mr L. Spearpoint, Senior Environmental Health Officer
- f. Also in attendance: Mark Lewis, Regional manager for Ei Group Ltd, the freeholder of the premises, who did not make any representations; Mr Robert Thomas, Licensing Enforcement Officer, Spelthorne Borough Council.

EVIDENCE

4. The Licensing Sub-Committee has considered all of the relevant evidence made available to it, and in doing so has taken into account the regulations and national guidance under the Licensing Act 2003 and Spelthorne Borough Council's Statement of Licensing Policy.

Applicants for Review

5. Mr and Mrs Stevens, Ms Colquhoun and Mrs Shaw explained the negative effect the operation of the premises was having on their lives which had resulted in them submitting the application for review. They understood and accepted that they lived next to a pub and consequently expected, and were exceptionally tolerant of, a certain level of disturbance. It was only when disturbance escalated to a level which was intolerable that the neighbours reluctantly took action. This is what had led to the previous review which they had called in 2008 and also this review due to the problems the residents had experienced since December 2016.
6. The Applicants described incidents of anti-social behaviour and public nuisance in detail in the documentation and related some of these at the hearing. In summary, the logs of complaints and incidents outlined the number of times that residents were subjected to the use of shouting and foul language from customers in the patio area, smoking shelter and car park, even after the premises has closed; and disturbance from ball games, balls hitting the

residents' garden fences and intrusions into their gardens from children, and their parents, retrieving balls. The residents believed that a regular group of customers were the main perpetrators of the aforementioned problems and that the pub management was aware of this. In addition, residents experienced frequent problems with noise nuisance caused by loud music from events at the pub when the fire door was propped open or the windows facing their properties were opened. All the above incidents, which especially affected the quality of life for nearby residents during the summer months, were beyond a level which any neighbour living in close proximity to pubs might be expected to suffer.

7. Mr and Mrs Stevens had lived near the pub for over 30 years (over half of them without any problems from the pub), Mrs Shaw over 20 years and Ms Colquhoun over 10 years. The effect of the incidents described by the residents on their quality of life was significant. They felt unable to invite guests, including elderly parents and young grandchildren, to their houses for fear of the embarrassing consequences of subjecting them to unpleasant and offensive language and conduct. Residents could not use their gardens as they might expect, either in the evening or during weekends. They felt intimidated and fearful for the safety of themselves and their children in their own homes, because of the offensive behaviour of intruders. Drug activity witnessed in the car park was believed to be far more serious than initially suspected and was encroaching on family life. Sleep patterns were disturbed when music entertainment took place both midweek and at weekends resulting in full-time workers being left exhausted.
8. The applicants claimed that the problems at the premises were due to ineffective and poor management. They had brought their concerns to the attention of the pub management but claimed these were ignored. They had made suggestions to the pub management of measures to address the problems but alleged these were either not forthcoming or had been rejected on the grounds of cost or with an abdication of responsibility. They claimed that rules about 'no ball games' in the patio area and car park were not enforced by the pub management even when alerted by residents that such events were taking place.
9. The Applicants felt they had exhausted all avenues of complaint and reasonable discussion with the Respondent, when their last meeting with Mr and Mrs Singh had broken down; every suggestion the residents made was turned down and

the Respondent appeared not to care. The residents had received an invitation from the Respondent for further meetings since then but the latter's alleged condescending attitude for the protocol of these meetings had offended the residents.

10. The Applicants had complained to the out of hours' noise service and called the police, each on two separate occasions. They had complained to the Environmental Health service at the Council on several occasions which led to them formally logging those incidents which they found particularly disturbing and intrusive. It was following a visit by an out of hours officer who allegedly gave a conflicting formal account of their visit to the response conveyed to the resident, that the Applicants decided they had no other alternative but to take action themselves to bring this Review; no other avenues were open to them.

Responsible Authorities

11. Representations were received from Leslie Spearpoint, Environmental Health Officer.
12. Leslie Spearpoint reported that 4 complaints from members of the public had been received and logged by Environmental Health between July 2015 and June 2017 in the summer months. Environmental Health had sent reminder letters to the pub regarding the conditions on their licence as a result of these complaints.
13. The incidents of complaints had escalated between April and July 2017 and consisted of:
 - The frequent playing of ball games in the pub garden. Balls going over into neighbouring gardens and customers retrieving them by climbing over the boundary fence.
 - Frequent events of loud music resulting in disturbed sleep; need to sleep with windows closed even on warm evenings; unable to watch television.
 - Frequent groups outside the pub screaming, swearing and shouting from late afternoon to closing time.
 - Customers remaining around the premises after hours, loud talking / shouting /swearing.
14. The Council's out of hours service was called out and visited on 17 June 2017, concerning a complaint made in respect of loud amplified music from a live band at The Jolly Butcher. The band played whilst the officer was on site. He felt that the noise level was not a statutory nuisance with the patio doors closed, however

with the patio doors open it constituted borderline statutory nuisance. He asked the person in charge to close four open windows behind the band and to ensure doors and windows are kept closed all the time the band were playing. He visited the complainant's property prior to leaving the area and confirmed the music was at a reasonable level.

15. On 25 July 2017 a site meeting took place between Mr Rajesh Singh of Soul Curry Ltd, Robert Thomas, Licensing Enforcement Officer and Mr Spearpoint to discuss the concerns raised by residents. Mr Singh confirmed that: noise from music was being monitored at the perimeter of the site; several customers had been banned due to the use of offensive language; there had only been one occasion where a ball had gone over a fence resulting in an argument with the neighbour; he would letter drop neighbours inviting them to a meeting and provide a direct land line number to the DPS; he had no knowledge of the reported incident concerning a car engine being run in the early hours of 20 July 2017 and that CCTV did not capture images of people returning to the premises after it closed as it did not cover the whole site. They also discussed connecting floodlights to sensors and limiting the length of 'on' time to reduce light nuisance to neighbours and installing some form of barrier/chain across the car park entrance.
16. Mr Spearpoint explained that the Council installed noise monitoring equipment in a nearby residential property from Friday 25 August to Thursday 31 August 2017, covering the August Bank Holiday weekend. Recordings were only made on the evening of Saturday 26 August 2017, between 20:55 and 22:08. The beat of the music could be heard on the recording though not the actual words. There was one occurrence when the level of music increased which may have been due to a door being opened. He said that if a television or radio was on in the same room that it could mask the music coming from The Jolly Butcher.
17. Mr Spearpoint believed that if advice on preventing noise emanating from the premises had been followed that the noise from the music could not have been heard in the resident's home.

18. Mr Spearpoint suggested some conditions which he felt would assist to control future problems from noise disturbance caused by loud amplified music at the premises.

1. Staff will check prior to the commencement of regulated entertainment, and periodically during the regulated entertainment, that all windows and doors are shut.
2. From opening until 23:00 hrs. To prevent entertainment being intrusive, noise emanating from the premises will not be clearly distinguishable above other noise at the boundary of the nearest residential property. (You should not be able to identify the tune above normal background noise, although you may still be able to hear something).

After 23:00 hrs noise emanating from the regulated entertainment should not be audible outside the premises.

3. Person(s) who are assessing the noise, to have the authority to take the necessary action, i.e. to reduce the noise level, should the noise level exceeds the above criteria by requiring the sound level to be reduced.
4. Consideration should also be given to the installation of a noise limiter device.
5. Also, the installation of internal doors, to the entrance area, to create a lobby, to reduce the level of music coming from the premises, when the outside doors are open, when customers enter and leave the premises. Access to the premises to be restricted to the main entrance. Fire escape doors to be unlocked, whilst customers are on the premises and fitted with breakable straps, or other easy access device, in the event of a fire. In order to stop them being used to access the premises.

Other parties

19. The Sub-Committee received written representations from one other party: the freeholder of the Premises, Ei Group plc. Their representative did not speak at the hearing.

20. In their written representation, the representative for the freeholder stated that the Jolly Butcher was the subject of a 21 year lease agreement in favour of the premises licence holder, Soul Curry Limited. That company took assignment of the lease in July 2015 and had been operating these premises for just over 2 years.

21. The lease/tenancy agreement made it clear that all operational responsibility for the premises lay with the tenant.

22. Ei Group plc took a wholly neutral stance with regard to the allegations raised in the application for review. As it had no operational responsibility for these premises, it did not comment upon specific allegations.

Premises Licence Holders

23. The current premises licence holder is Soul Curry Ltd. Mr R. and Mrs S. Singh attended the hearing and were represented by Mr Whitehead. This was their first licenced premises and their music offer is the driver for the premises which brings in customers.
24. Mr Whitehead illustrated the difference in severity between the problems that led to the review in 2008 and on this occasion. He said this Review was called due to noise and anti-social behaviour and a perceived nuisance of ball games and swearing.
25. He noted that the Police had not made a representation and as the Environmental Health representation was concerned with its responses to residents' complaints and visits to the premises, questioned whether on balance the level of disturbance described by residents was as high as the Sub-Committee was being led to believe.
26. He stated that this was a large pub in a densely populated residential area but that only three households, those of the applicants for review, had made complaints; if the problems were that bad he would expect Environmental Health to have called the Review at an earlier stage.
27. Mr Whitehead said that the initially good relationship between the Premises Licence Holder and the residents had broken down but that the Premises Licence Holder wanted to draw a line under the past and build up the relationship again.
28. He commented that there had been no evidence of a statutory noise nuisance, other than one short burst out of 8 recordings made over the August Bank Holiday weekend. However, mindful that staff did not have sight at all times of the many conditions on the Premises Licence, the Premises Licence Holder had introduced a Noise Management Plan which staff would see. It included those conditions recommended by the Environmental Health Officer numbered 1 - 3 above, which were agreed. It was also proposed to obtain and fit break straps to

the fire doors. Mr Whitehead handed out copies of the Noise Management Plan for all present and a copy is attached to this Decision Notice.

29. The Respondent did not propose to install a noise limiter as this was not an appropriate solution on its own and was extremely expensive. The installation of internal doors to the entrance area to create a lobby was something the Premises Licence Holder would look at but was another costly measure and would take some time to implement. They had also considered acoustic fencing but as well as requiring a noise survey to ensure the proper specification, a 3m high fence would require planning permission and may not be acceptable to residents. They had no fixed plans to put a barrier across the pub car park entrance.
30. Mr Whitehead stated that the Respondent had barred a lot of the badly behaved customers and was seeking to bring in a new Designated Premises Supervisor (DPS), who would live on-site and who had experience of community pubs and possessed the presence needed to deal with disruptive customers. The Premises Licence Holder did not wish to put a time limit on finding a new DPS as in order to get the right person, and avoid the previous scenario described in the 2008 Review of a succession of ineffective DPSs, intended to undertake the necessary and proper checks and references.
31. Mr Whitehead said that the Premises Licence Holder accepted there had been problems and believed they had shown commitment to their responsibilities by the concerted efforts they had already made to improve the premises: putting shrubs in planters by the fences; opening up the lawn area to the left of the premises and installing a football goal there to encourage people to use this safe area for ball games rather than the car park or patio; starting a Pub Watch scheme as there was not already one in existence; acoustically protecting the music stage from the floor to prevent noise; implementing a Noise Management Plan and getting rid of most of the awful customers. They planned to install lockable double glazing by April 2018, but having got rid of the customers who brought in money were not in a position to do so immediately. It was hoped this last measure would completely control noise nuisance from music.

32. Mr Whitehead outlined the current training arrangements which included a training shift, then formal training on the Licensing Act 2003, the mandatory conditions and those specific to this Premises and drug awareness. This was followed by six monthly refresher training. Mr Whitehead had offered to produce a better training pack for the Premises.
33. Mr Whitehead stated it would be a proportionate step for the Licensing Sub-Committee to issue an informal warning to the Premises Licence Holder and recommend improvement within period of time.

FINDINGS

34. The Sub-Committee has considered the representations made by the Applicants, the Responsible Authority and the Respondent. The Sub-Committee finds as follows:
35. The Sub-Committee accepts the evidence of the Applicants that although they expect to be disturbed from time to time, the level of disturbance has now reached unacceptable levels. Music from the premises and noise emanating from the large outdoor area, namely the patio and the car park are the main sources of the disturbance, as the patio area and car park back on to and are enclosed by residential properties.
36. The Sub-Committee is persuaded that the Respondent has taken steps to address some of the problems raised by the Applicants, for example, by barring groups of unsavoury customers from the premises. The Sub-Committee also notes that the Respondent has been engaging with the Council's Licensing team and Environmental Health officers and is attempting to start a new Pub Watch scheme which they hope will assist in the reinforcement of barred patrons and encourage communication with other licensed premises about patrons who cause problems.
37. However, it is the view of the Sub-Committee that many of the issues raised could have been resolved if the premises were properly managed and had an experienced DPS who was in full control of the premises.
38. It is clear to the Sub-Committee that over recent months, the relationship between the Applicants and the Respondent has broken down. The Sub-

Committee is pleased that the Respondent wants to draw a line under the past and re-build the relationship with the Applicants again.

39. The Sub-Committee is mindful of Spelthorne's Statement of Licensing Policy which states that providing consumers with greater choice and flexibility must always be balanced carefully against the rights of local residents to peace and quiet.
40. The Sub-Committee is also conscious of human rights implications when considering and balancing licensing issues, in particular, Article 1 of the First Protocol and Article 8. Article 1 relates to the peaceful enjoyment of possessions and Article 8 provides that every person has the right to respect for their private and family life and home.
41. The Applicants cited all four licensing objectives in their review application, however, the Sub-Committee notes that the evidence relates to the prevention of public nuisance and crime and disorder only. Taking each of those licensing objectives in turn, the Sub-Committee finds as follows:

Crime and Disorder

42. The Sub-Committee were persuaded by the Applicants' evidence that the premises are attracting unsavoury patrons whose behaviour is unacceptable. Although Surrey Police did not make a representation so were unable to corroborate the Applicants' allegations or raise an objection under the licensing objective of crime and disorder, the Sub-Committee is persuaded by the evidence of the Applicants and finds there is low level anti-social behaviour in connection with the licensable activities at the premises.
43. The Sub-Committee considers this behaviour is due to the Premise Licence Holder and current DPS failing to have full control of the premises. The Sub-Committee is pleased to hear that the Respondent is looking for an experienced DPS and believes that an experienced and assertive DPS will control the behaviour of the patrons, which will address the concerns of the Applicants.

Public Nuisance

44. The Sub-Committee is persuaded by the evidence of the Applicants that the premises is not being run in accordance with the Licensing Objectives in relation

to the prevention of public nuisance, due to excessive noise from music and from the behaviour of customers congregating in the patio area.

45. In relation to music emanating from the premises, the Sub-Committee notes from the evidence of Mr Spearpoint that when the patio doors and windows are open it constitutes a borderline statutory nuisance. However, when considering the likely effect of the licensable activities taking place at the premises on the licensing objectives, the Sub-Committee only needs to be satisfied that a public nuisance would be caused.
46. The Sub-Committee is persuaded that the premises has caused excessive noise from live music which can be heard in neighbouring premises to a disproportionate degree when the windows and doors of the Jolly Butcher are open.
47. The Sub-Committee is persuaded that the noise from customers using the patio area is having a detrimental effect on the Applicants' right to peacefully enjoy their homes and gardens. In particular, the Sub-Committee notes the times specified in log sheets supplied by the Applicants and finds that the licensable activities impact on the prevention of public nuisance objective in relation to the residents' ability to relax and sleep.
48. In particular, the Sub-Committee finds the effect on the residents due to noise from the patio area being open until the premises closes and even beyond those hours, to be disproportionate and unreasonable.
49. The Sub-Committee therefore considers on the basis of the evidence that it has heard, that steps need to be taken to control the level of noise from the premises, particularly from the patio area to address the promotion of the licensing objectives.
50. In addition, the dispersal of patrons from the premises has been unsatisfactory as customers have remained in the patio area and car park after the premises has closed and into the early hours. It is the Sub-Committee's view that the current DPS does not have full control of the premises and as this issue could have been managed by staff, it is an indication of poor management and lack of staff training.

CAUSES OF CONCERN

51. The Sub-Committee is advised by National Guidance paragraph 11.20, to identify the causes of concern established by the representations. Remedial action can then be directed to those causes. In this case the causes of concern may be summarised as follows:

- (a) There is poor management and supervision of the premises by the Premises Licence Holder;
- (b) The DPS is not controlling or adequately managing the premises and those attending;
- (c) The Licensing Objectives are not being addressed so that residents suffer from crime and disorder and public nuisance.

LEGAL POSITION

52. By virtue of the Licensing Act 2003 the Sub-Committee is entitled to consider on a review application whether it should:

- ⇒ Modify the conditions
- ⇒ Exclude a licensable activity
- ⇒ Remove the Designated Premises Supervisor
- ⇒ Suspend the licence for up to 3 months
- ⇒ Revoke the licence

Written Warnings

53. The Sub-Committee considered the advice set out in the national guidance at paragraph 11.17 that a Sub-Committee could consider written warnings to a Premises Licence Holder and to recommend improvement within a particular period of time.

"It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warning should be issued in writing to the holder of the licence."

No written warnings have previously been presented to the Premises Licence Holder about its management of the premises.

54. Pursuant to paragraph 11.17 of the National Guidance, the Sub-Committee warns the Premises Licence Holders that they need to take serious steps to address the management failings at this premises and take on board the

concerns of residents. Residents have been repeatedly subjected to offensive language and have been disturbed by the actions of customers using the patio. Such steps should include warning customers not to behave in such a way and moving them from the outside area if such behaviour continues. The Sub-Committee recommends that an effective dispersal policy should also be put in place to prevent customers remaining in the outside area after the pub has closed.

55. The Sub-Committee also recommends the Premise Licence Holder should consider moving the smoking shelter to a position further away from the residential properties in order to minimise disturbance from groups of customers congregating in the smoking shelter.
56. The Sub-Committee considers that the proposal to put in place an experienced and assertive DPS for this type of premises will go a long way to promote the licensing objectives and move this establishment forward.
57. The Sub-Committee expects to see the management of the premises taking steps to re-build relationships with residents to facilitate a two way dialogue to everyone's benefit.

OPTIONS

58. The Sub-Committee has considered which of the remedies available to it would be most proportionate and appropriate to meet the Licensing Objectives on prevention of nuisance and prevention of crime and disorder and address the concerns outlined above.

Modification of conditions

59. The Sub-Committee considered if the problems at this premises could be remedied by the imposition of conditions. The Responsible Authority has advised the Sub-Committee to impose conditions and the Respondent has agreed to accept most of these. The Respondent has also introduced a Noise Management Plan which incorporated some of the suggested conditions proposed by Environmental Health. The Sub-Committee feels that the conditions agreed with the Responsible Authorities, together with the Noise Management Plan should go a long way towards addressing the nature of the failings at these premises. The Sub-Committee has therefore decided that it is

appropriate and proportionate to impose the following conditions to ensure that the licensing objectives are promoted at these premises:

1. Staff will check prior to the commencement of entertainment (being live and/or recorded music) and periodically during such entertainment that all windows are closed;
2. Prior to the commencement of entertainment (being live and/or recorded music), the side door facing the residential properties in Chestnut Grove, which opens onto the patio area must be closed.
3. A clear and legible sign to be appropriately displayed stating that the door (identified by Condition 2.) must remain closed during the period of such entertainment.
4. Staff will periodically check to ensure the sign at Condition 3. above is in place and the door is closed.
5. Suitable breakable straps or equivalent shall be permanently fitted to the door (identified by Condition 2.) and remain in place at all times.
6. To prevent entertainment (being live and/or recorded music) being intrusive, noise emanating from such entertainment must not be clearly distinguishable above other noise at the boundary of the nearest residential property.
7. Staff shall periodically assess the level of noise from entertainment (being live and/or recorded music) at the boundary of the nearest residential property whilst such entertainment is taking place and if in their reasonable opinion the noise from such entertainment is clearly distinguishable above other noise, the level of the live or recorded music must be reduced to be indistinguishable. Staff assessing the noise to have the authority to take the necessary action to ensure the noise level is reduced.
8. Clear and legible signs to be prominently displayed advising patrons that the smoking shelter shall not be used after 23:30.

9. Clear and legible signs to be prominently displayed requesting patrons to turn off their vehicle engine and stereo system whilst parked.

10. There shall be no emptying of bottle bins outside the premises between 22:00 and 08:00.

11. The outside patio area, as defined by the area outlined in red on the plan that accompanies this Decision Notice, shall close at 21:30 every day, with the exclusion of use of the smoking shelter.

60. The Sub-Committee is persuaded that the Conditions proposed will address the Applicants' concerns in relation to excessive noise from music.

61. The Sub-Committee finds that the Respondent's offer to install double glazing at the premises by 1 April 2018 is a reasonable offer. The Sub-Committee is not making this a condition of the licence, but hopes the Premise Licence Holders installs double glazing as promised.

Exclusion of Licensable activity

62. The Sub-Committee then went on to consider the removal of a licensable activity. There are 3 licensable activities at the premises; sale by retail of alcohol; provision of regulated entertainment (indoor sport and recorded music) and late night refreshment.

63. Only the sale of alcohol has possibly contributed to the problems at the Jolly Butcher. However, as the Sub-Committee has identified that the main cause for the nuisance suffered by residents is inadequate management it would be disproportionate to exclude this activity to address the causes of concern.

64. The Sub-Committee does not consider that the removal of a licensable activity is an appropriate and proportionate step to address the concerns raised by this review application and promote the four licensing objectives.

Removal of DPS

65. The Sub-Committee is persuaded that the main cause of public nuisance at the premises has been lack of proper control by the DPS. The Sub-Committee is pleased to note that the Premises Licence Holder is intending to change the DPS

as soon as they are able to find a suitably experienced person who can deal with the difficult customers that the premises has attracted in the past. The Sub-Committee is persuaded by the Respondent's argument that if it should decide to remove the DPS as a result of this Review hearing that it is unlikely the Premises will find a suitable replacement DPS within the 21 days required by the legislation. The Sub-Committee believes that allowing the Premises time to find a suitable DPS will result in a better outcome for residents in terms of promoting the licensing objective on prevention of public nuisance.

Temporary Suspension of License

66. The Sub-Committee also considered temporary suspension of the premises licence.
67. A suspension serves as a severe form of warning to the Premises Licence Holder that there is a risk that if things do not improve then more serious action is warranted. Given the Sub-Committee's findings above it follows that this is not an appropriate sanction in this case. The Premises Licence Holder has already taken action to improve the problems that led to public nuisance at the premises and, along with the Conditions imposed by the Sub-Committee as a result of this Hearing, their plans to implement further changes should fully address the problems. The Sub-Committee therefore considers a suspension to be inappropriate.

Revocation of License

68. On the evidence presented the Sub-Committee considered whether revocation of the premises licence was necessary. It concluded that on the basis of the evidence before it and in the absence of a representation by the Police the problems at this premises did not warrant such a drastic measure. The Sub-Committee is confident that the measures already introduced and proposed by the Premises Licence Holder can achieve proper management of these premises in the future.

DECISION

69. The Sub-Committee has reached a decision about this matter and in doing so has taken into account the National Guidance on Reviews, paragraph 11.20, which encourages Sub-Committees to identify the problems at licensed premises

and then to take a proportionate view to the remedies which are available and might be necessary to promote the licensing objectives.

70. The Sub-Committee has decided to modify the conditions of the Premises Licence, as set out at Paragraph 59 above.

Conclusion

71. That is the decision of the Sub-Committee. A copy of this decision has been provided to all parties concerned within 5 working days of the Sub-Committee hearing.
72. You have the right to appeal against this decision to the Magistrates' Court within 21 days of receipt of this decision notice.
73. If you decide to appeal, you will need to submit your appeal to Guildford Magistrates Court. You should allow sufficient time for your payment of the relevant appeal fee to be processed. For queries, Guildford Magistrates Court can be contacted on 01483 405 300.

Councillor R.W. Sider BEM (Chairman)

Councillor M.M. Attewell

Councillor S.A. Dunn

Date of Decision: 2 October 2017
Date of Issue: 6 October 2017

Noise Management Plan - Jolly Butcher

Issue	Measures taken or introduced	Action
Music noise from inside premises	<p>Staff will check prior to the commencement of entertainment, and periodically during entertainment that all windows are closed.</p> <p>Prior to commencement of entertainment, the side door to the garden must be closed. A clear and legible sign to be prominently displayed stating the door must remain closed during periods of entertainment. Staff will periodically check to ensure this notice is in place and the door is closed.</p> <p>Entertainment must cease no later than 23.00.</p> <p>To prevent entertainment being intrusive, noise emanating from the premises will not be clearly distinguishable above other noise at the boundary of the nearest residential property.</p> <p>Staff shall periodically assess music noise at the boundary of the nearest residential property and take appropriate steps so that the above criteria is met.</p>	<p>In place</p> <p>By 06/10/17</p> <p>In place</p> <p>In place</p> <p>In place</p>
Outside music	No amplified music will be played outside.	In place (PLC)
Garden area	<p>Clear and legible signs to be prominently displayed advising patrons that ball games are prohibited.</p> <p>Glasses, bottles and waste shall be frequently cleared from the garden area.</p> <p>External areas shall be periodically checked for any rowdy or anti-social behaviour and if identified, reported to the senior member of staff on duty for appropriate action. (Action taken may include asking those responsible to moderate their noise or language, refrain from playing ball games, refusal of service, or no action necessary).</p>	<p>In place (PLC)</p> <p>In place</p> <p>In place</p>
Smoking shelter	Clear and legible signs to be prominently displayed advising patrons that the smoking shelter shall not be used after 23.30.	By 06/10/17
Car park	Clear and legible signs to be prominently displayed requesting patrons to turn off their engine and stereo systems whilst parked.	By 06/10/17
Bottle bins etc	There shall be no emptying of bottle bins outside the premises between the hours of 22.00 and 08.00.	In place
Building fabric	Double glazing to be installed to rear of building.	By 01/04/18

(PLC = premises licence condition)

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Jolly Butcher, Kingston Road

Patio Area - red outline



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