

# Licensing Sub-Committee

2 October 2017



<b>Subject</b>	Application for <b>review</b> of the Premises Licence for the Jolly Butcher, Kingston Road, Staines, TW18 1PE.		
<b>Purpose</b>	For determination		
<b>Report of</b>	Deputy Chief Executive	Ward	Staines South
<b>Contact</b>	Rob Thomas, Licensing Enforcement Officer, (01784) 446439		

<b>Description and Location</b>	The Jolly Butcher is a public house, surrounded by residential properties. A location plan is attached at <b>Appendix A</b> .
<b>The Application</b>	<p>The application is to review the Premises Licence and cites all four licensing objectives (prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm) as grounds, though the bulk of the content within the forms appears to relate to the prevention of public nuisance. It has been served by Susan and John Shaw, Jackie and Jerry Stevens, and Fiona Colquhoun – residents living in the vicinity of the premises.</p> <p>The current licence is attached at <b>Appendix B</b>. The review application is attached at <b>Appendix C</b>.</p>
<b>Representations</b>	<p>Relevant representations have been received from Spelthorne Borough Council's Environmental Health department and Ei Group Plc. (formerly Enterprise Inns).</p> <p>Letters of representation are attached at <b>Appendices D and E</b>.</p>
<b>Options</b>	<ol style="list-style-type: none"><li>1. The Sub-Committee is requested to consider the application for the review of a premises licence on its merits.</li><li>2. 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:<ul style="list-style-type: none"><li>• <b>Modify the conditions</b></li><li>• <b>Exclude a licensable activity</b></li><li>• <b>Remove the Designated Premises Supervisor</b></li><li>• <b>Suspend the licence for up to 3 months</b></li><li>• <b>Revoke the licence</b></li><li>• <b>No action required</b></li></ul></li></ol>

## **1. Historical background**

- 1.1 In November 2005, under the terms of the Licensing Act 2003, a Justices' licence for the Jolly Butcher in Kingston Road, Staines was converted to a Premises Licence.
- 1.2 In the ensuing years, residents raised concerns about the operation of the premises and its impact on them – particularly during the summer of 2006 and again in 2008. A review application was submitted to Spelthorne Borough Council and the licence for the premises was subsequently revoked in October of 2008.
- 1.3 In January of 2009 a new Premises Licence was issued to a different licence holder, this time with restrictions on regulated entertainment – in an attempt to minimise the impact of the operation on residents.
- 1.4 Residents again raised concerns about noise from the premises with the Council's licensing department in early 2010 (this was after liaison with pub management had apparently proved fruitless).
- 1.5 It is important to note that the Live Music Act 2012 came into effect on 1 October 2012, effectively rendering conditions surrounding regulated entertainment on many Premises Licences (including those on the licence for the Jolly Butcher) obsolete. A brief summary of what the LMA permits is **attached as Appendix F**.
- 1.6 Nonetheless, the situation at the Jolly Butcher appeared to quieten down until the summer of 2013, when the licence holder employed a change of management at the premises. The Council's then Licensing Enforcement Officer, Reba Danson, arranged a meeting with the licence holders and nearby residents to agree a set of actions that could be taken to appease all involved. This appeared to have some impact, though it did not resolve issues entirely.
- 1.7 Over the summer of 2014, residents again raised issues with the Council's Licensing Enforcement Officer.

## **2. History since the licence was transferred to Soulcurry Ltd.**

- 2.1 In the summer of 2015, the licence was transferred to the current licence holder, Soul Curry Ltd. An application to vary the licence to specify Julian Terriaca as Designated Premises Supervisor (DPS) was received simultaneously. Soon after the licensing department was copied in to a chain of e-mails between residents and the new management, in light of noise emanating from the premises due to its operation.
- 2.2 Julian Terriaca stepped down in December of 2015, when Shweta Singh replaced him as DPS.
- 2.3 No further complaints were received until the Christmas period in 2016, when late opening hours resulted in some heated correspondence back-and-forth between nearby residents and the Premises Licence Holder.
- 2.4 Problems have escalated throughout the summer of 2017, with the licensing department having been copied into dozens of e-mails going back-and-forth between the residents and the Premises Licence Holder. It is clear that relations between the parties have now completely broken down.

- 2.5 Mr and Mrs Singh have shown a commitment to taking their duties from a legal standpoint seriously. Licensing inspections carried out by the Council's Licensing Enforcement Officer during Soulcurry Ltd.'s tenure at the premises have shown the Premises Licence Holder to be generally compliant, though it was noted during a recent visit that a good practice refusals log (which, unusually, is not a condition of the licence) could have been better – and advice given accordingly. Mr and Mrs Singh have seemed eager to please at all times, and have even enquired about joining a Pubwatch scheme and subsequently – in the absence of one – about the process for starting a new Pubwatch, in order to promote the prevention of crime and disorder.
- 2.6 During the course of visits, the Licensing Enforcement Officer observed that since taking over the Premises Licence, Soulcurry Ltd. have invested time and money into steering the focus of the business towards live music. In response to complaints, a stage was installed at the property to help minimise the impact live music has on neighbouring residents. A number of fans can be seen in operation at the pub during summer months to keep temperatures more comfortable for patrons when having doors and windows propped open would be inappropriate. Signs have been put up around the premises asking customers to refrain from using offensive language, as well as by the side door which leads to the garden – asking that it be kept shut. Unfortunately, it is not possible for this door to be locked during hours when the premises is open to the public, as it is a fire exit.
- 2.7 Some suggestions were made to the Premises Licence Holder for ways to reduce the impact of operations at the premises, including: -
- Reducing the frequency of live music events
  - Bringing forward the terminal hour of such events
  - Installing a noise limiter to manage the output volume of any music at the premises
  - Hosting a regular weekly drop-in session, during which time residents can visit to voice concerns, throughout the summer months – and circulating a leaflet advising them this was an option available
- 2.8 Unfortunately, none of these suggestions were taken up until somewhat recently – which has given residents the impression that an undertaking to do so was nothing but the result of the review application.
- 2.9 The above summary of complaints does not represent the number of instances where people have been disturbed by noise and antisocial behaviour in connection with the pub and contacted the council. At times there have been several e-mail communications in a matter of days.
- 2.10 As will be apparent, complaints have not been continuous and residents appear to have had periods of relative peace, usually during the winter months – before and since Soulcurry Ltd.'s involvement in the premises.

### **3. Review Application**

- 3.1 An application for the review of the premises licence was received on 1 August 2017. A copy is at **Appendix C**.
- 3.2 The grounds for the review are complex and numerous. However, common themes that emerge throughout the included (and subsequent) log sheets are that there are problems with noise from both inside and outside of the

premises, antisocial behaviour and perceived nuisance such as customers swearing and playing football in the garden.

- 3.3 The applicant copied the review application to the licence holder and the responsible authorities as required by the Act. The notice of review was displayed at the premises between 8 August 2017 and 5 September 2017 and in the reception area of the Council Offices as well as the Council's website.

#### **4. Promotion of the Licensing Objectives**

- 4.1 The relevant Licensing Objectives, as specified in the review application, are set out below for information:

##### **Prevention of crime and disorder**

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

##### **Public safety**

- Vehicles leaving the premises car park at speed

##### **Prevention of public nuisance**

- Noise nuisance, stemming from both music inside the premises and patrons drinking/smoking in the garden
- Patrons playing ball games in the garden
- Patrons swearing

##### **Protection of children from harm**

- The applicants believe that vehicles leaving the premises car park pose a risk to children

#### **5. Representations**

##### **i) Representations from Responsible Authorities**

- 5.1 A relevant representation has been received from Environmental Health and is attached as **Appendix D**.

##### **ii) Representations from 'other persons'**

A relevant representation has also been received from the owners of the premises, Ei Group Plc. (formerly Enterprise Inns) and is attached as **Appendix E**.

- 5.2 Both representations are almost entirely neutral, though the one provided by Environmental Health does suggest that a statutory noise nuisance may exist if the side door of the pub (which leads directly into the garden adjoining to neighbouring properties) is propped open during times when regulated entertainment is taking place.

#### **6. Licensing Policy**

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

- 24.1           Reviews in connection with crime
- 24.6           Reviews in relation to public safety

- 24.7.1 Noise
- 24.7.5 Reviews in connection with public nuisance
- 24.8.3 Reviews in connection with protection of children from harm

## **7. National Guidance**

The relevant section (11) from the National Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 on determination of a Review is attached at **Appendix G**.

## **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 It is only where additional and supplementary measures are appropriate to promote the licensing objectives that there will be a requirement for appropriate, proportionate conditions to be attached.
- 8.4 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.
- 8.5 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.

## **Appendices:**

**Appendix A – Location plan**

**Appendix B – Premises Licence**

**Appendix C – Review application**

**Appendix D – Representation from Environmental Health**

**Appendix E – Representation from Ei Group Plc.**

**Appendix F – Summary of the Live Music Act 2012**

**Appendix G – Section 11 of the National Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003**