



## **SPELTHORNE BOROUGH COUNCIL**

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Our ref: GS  
Date: 21 December 2018

### **DECISION NOTICE**

**In accordance with the LICENSING ACT 2003 s.23**

**Date of Licensing Sub-Committee:** 19 December 2018

**Applicant:** Greene King Retailing Ltd

**Premises:** The Magpie  
64 Thames Street  
Sunbury-on-Thames  
TW16 6AF

**REASON(S) FOR HEARING:** Relevant representations received from interested parties concerning Prevention of Crime and Disorder and Prevention of Public Nuisance:-

- Likely increase in disorder and antisocial behaviour in general vicinity of premises
- Increase in noise later into the evening

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### **DECISION**

Granted subject to modification to hours of licensable activities and conditions

With effect from 19 December 2018

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## REASONS FOR DECISION

1. The application is for variation to a premises licence for The Magpie, 64 Thames Street, Sunbury-on-Thames, TW16 6AF.

### Attendance

1. Four people attended the Sub-Committee hearing to make representations. They were:
  - Rupert Reeves, Business Development Manager, on behalf of Greene King Retailing Ltd
  - Claude Page, Designated Premises Supervisor
  - Martin Roberts, a representee
  - Graeme Tollitt, a representee
2. The Licensing Sub-Committee considered all of the relevant evidence made available to it at the hearing including:
  - the report of the Deputy Chief Executive outlining the matter to be considered;
  - written representations from 10 interested parties and oral evidence at the hearing from two of these.

### Application

3. The current premises licence holder, Greene King Retailing Ltd., Westgate Brewery, Bury St. Edmunds, Suffolk, IP33 1QT made an application to vary the licence on 1 November 2018 for:
  - provision of regulated entertainment including: films, live music, recorded music, anything of a similar description: Monday to Sunday (inclusive): 10:00 to 23:00.
  - provision of late night refreshment: Monday to Sunday (inclusive) 23:00 to 00:00.
  - sale by retail of alcohol: Monday to Sunday (inclusive) 09:00 to 00:00
  - hours open to the public: 08:00 to 00:30.
  - to include the external area as part of the premises
4. To remove the following conditions as per Annex 2;  
**"Prevention of crime and disorder":**
  - number of door supervisors: 2 once a year for river festival

- external lighting of car parks and walkways
- Additional training for all house managers on dealing with illegal activities and aggressive customers
- Sensible drinking policy and training in place
- Joining pub watch will permit the DPS to have up to the minute information on local issues and national support, this will forge better communications with the police
- Additional training on communicating with customers when service is refused for drunkenness

### **Public Safety**

- Number of door supervisors: 2 once a year for river festival
- External lighting of car parks and walkways
- Family orientated business, which is reflected in the customer base
- Increased supervision of trading area by management, staff and glass collectors etc
- Sensible drinking policy and training in place
- To join pub watch will facilitate the exclusion of known troublemakers thus making the pub safer

### **Public Nuisance**

- To join pub watch (if scheme exists)
- No external drinking after 23:00
- Please leave quietly signs
- Delivery and collection times not to be changed
- Regulated entertainment (excluding recorded music) to end at 23:00
- Sensible drinking policy and training in place
- Additional training on communicating with customers when service is refused for drunkenness
- No external regulated entertainment
- External background music to be turned off at 21:00
- All windows and external doors to be kept shut during live performance save for customer access
- and egress

### **Child Protection**

- No children to be allowed on the site after 22.00
- Minimum signage to be displayed on the AWP's
- Audited proof of age scheme to be in place
- Family orientated business
- Additional training on communicating with customers when service is refused for no proof of ID
- Children to be allowed in dining area only unless passing from one place to another

**To remove the following conditions Annex 3 – Conditions attached after a hearing by the licensing authority**

- Regulated entertainment to take place inside only
- Regulated entertainment to cease 30 minutes prior to the conclusion of alcohol sales on Friday and Saturday evening with background music only to be played between such cessation time and closure of the premises.
- During the provision of regulated entertainment, windows and doors to be closed and remain closed.
- An incident and complaints book shall at all times be held at the premises and must detail all incidents that have taken place at the premises, whether they involve the police or not, and must contain details of action taken on all complaints received from the public about the premises and responsible authorities and the public at all reasonable times.
- Notices to be placed in prominent places both externally and internally at the premises to ask customers to leave the premises quietly.
- Notices to be placed in prominent places internally to provide phone numbers of local taxi firms
- Late night refreshment to take place inside only
- No beverages in open containers to be taken off the premises
- Applicant and Designated Premises Supervisor to hold quarterly meetings with local residents

**5. To add the following conditions:**

1. All outside tables and chairs shall be rendered unusable by 23:00 hours each day and no external drinking after 23:00 hours daily
2. External background music to be turned off at 21:00 hours
3. All windows and external doors shall be closed after 23:00 hours, or at any time when regulated entertainment takes place indoors, except for the immediate access and egress of persons.
4. No beverages in open containers to be taken off the premises
5. Notices shall be prominently displayed at all exits requesting patrons to respect the needs to local residents and leave the area quietly
6. A record shall be kept detailing all refused sales of alcohol. The records should include the date and time and the reason of the refused sale and the name of the member of staff who refused the sale. The records shall be available for inspection at the premises by the police at all times.

7. An incident log shall be kept at the premises and made available on request to the police. It must be completed within 24 hours of the incident and will record the following:
    - All crimes reported to the venue
    - All ejection of patrons
    - Any complaints received concerning crime and disorder
    - All drugs seized or found
    - Any incidents of disorder
    - Any faults in the CCTV system
  8. The premises shall install and maintain a comprehensive CCTV system.

All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 14 days with date and time stamping. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide Police copies of recent CCTV images or data with the absolute minimum of delay when requested.
  9. A minimum of 2 SIA licensed door supervisors shall be on duty at the premises at all times during the Sunbury Regatta Saturday only.
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6. The required notices were displayed and published in a local newspaper (The Surrey Advertiser, dated 16 November 2018).
  7. The application generated 10 representations from interested parties.

## **EVIDENCE**

### **Background**

8. The premises are located at 64 Thames Street, Sunbury on Thames, the rear of the Magpie has an open view over the River Thames. It is located in a terrace with, residential properties on both sides. .
9. The premises was issued a licence under the Licensing Act 2003 when the Act came into force in 2005. The current Premises Licence was attached to the Report of the Deputy Chief Executive.
10. The current licence permits the sale of alcohol on Monday to Saturday: 10.00am to 23.00 and on Sunday: 11.00am to 22.30. Late night refreshment is permitted on Fridays from 23.00 to 23.30.

11. The current licence also permits regulated entertainment of live and recorded music. However the Live Music Act 2012 supersedes this part of the Licensing Act 2003, and these activities are therefore no longer included on the licence.
12. 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.
13. There have been two recorded complaints to Environmental Health, one regarding collection of waste glass late at night in January 2016 and another relating to noise caused by a person shouting late at night in July 2014.
14. Surrey Police have two recorded visits to the premises, both in June 2018. The first resulted in an arrest in a local car park of someone who had allegedly been drinking in the Magpie, the other visit was in response to a call from the DPS to remove a customer smoking drugs.
15. There was one recorded report of a bag dumped outside the Magpie in 2015 but no instances of build-up of broken glass or cigarette ends reported.
16. The current DPS, Claude Page, was appointed on 14 September 2018.

### **Applicant**

17. Mr Reeves stated on behalf of the applicant that Greene King had started looking at the licence for The Magpie at the beginning of the year and, in conversations with licensing officers of Spelthorne Borough Council, considered some conditions were no longer required and could be 'tidied up'.
18. The business is going through transition; they are putting greater emphasis on food and the quality of food and plan a number of fine dining events such as a game tasting evening and a Rabbin Burns event, and would like to focus on that side of the business. The last food order is at 10pm and they would like to allow people to have a hot drink or alcoholic drink if they were still eating beyond 11pm rather than applying for a TENS. They plan to show films and silent movies on Sundays and organise lectures and presentations in the upper deck area. The outside area is not currently licensed, so they have to ask people to move inside and make payment at the bar and would like to bring the external area into the licence.

- 19.** In response to a question from the Sub-Committee, the applicants stated that they were aware that the application had caused concern amongst local residents and would like to allay their fears. They did not wish to promote late night drinking or hold 18<sup>th</sup> and 21<sup>st</sup> birthday party events and are very clear when event requests are made as to the conduct expected of guests. They were not intending to remain open until midnight every evening; it would not be economical if there were only a few guests and they did not want people coming from other local pubs after closing time, but the hours requested would be in place if required for special events and occasional evenings.
- 20.** When asked what action they took to disperse clients from the premises, Mr Page, the DPS, advised that signs were displayed at the exits asking people to be quiet on leaving and be careful and considerate of their neighbours. If there was an issue, then the person on duty would ask people to leave more quickly. Guests are reminded to drink up and leave quickly 10 minutes before closing time. There were no large numbers of people hanging around waiting for taxis. They wanted to promote the food aspect of the business which did not bring the same type of clientele into the premises.
- 21.** The DPS advised the Sub-Committee that he regularly made himself available to residents to voice any concerns.
- 22.** The DPS stated there were no recorded complaints logged in the premises' Register of Complaints since January 2018. Mr Roberts, a representee, stated that he had made verbal complaints to staff and assumed that these would have been recorded in the complaints log, however this did not appear to have been the case. Those complaints were addressed but not recorded. The DPS agreed they warranted inclusion in the log and would look into this.
- 23.** The applicant was asked by the Sub-Committee why they wanted to extend the hours of music outside, and were advised that they were looking to provide an acoustic form of music such as a guitarist or string quartet rather than a band.
- 24.** In response to a question from the Sub-Committee asking if regular meetings with local residents occurred, the DPS advised that he met with residents when he first took up the position, but preferred an open door policy.
- 25.** Following questions from Mr Roberts concerning the playing of music externally, the applicant advised that it was not their intention to play music outside after 9pm and was happy for a stronger worded condition to ensure that was not the case.

## **Representations**

Written representations were received from ten parties raising the following objections to the variation application under the licensing objectives

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

- The extended opening hours would lead to an increase in anti-social behaviour including alcohol related disorder, drug related activities, public urination, offensive language, shouting, violence and antisocial behaviour of a similar nature

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

- Local residences are affected by the music played in the Magpie and that this will increase with later opening hours.
- Disturbance increases at closing time with patrons ordering taxis, offensive language and occasional fights

### ***Public Safety***

- Concerns that there is a general build-up of refuse, including broken glass and cigarette butts left by patrons

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

- Concern that local children who live nearby are exposed to foul and obscene language when people are leaving the Magpie and that this will increase with later opening hours.

26. Martin Roberts who had submitted a written representations made an oral representation at the hearing.
27. Mr. Roberts stated that he had lived next door to The Magpie for 9 years. It was a terraced house with thin partitioning, to the extent that he could hear the hand dryers operating in The Magpie through the wall.
28. His garden is adjacent to the external area of The Magpie and the noise can be unbearable. He spoke to the previous manager and he said that you tend to find that the more people drink the louder they become. The noise can be intrusive to the point of offensive. He was concerned that the main bar is below street level and so staff would not be aware of what is going on at the front of the building on Thames Street and who is coming in. People leaving shout, scream, and use offensive language. Glasses and bottles and cigarette ends are left on his window sill which he considers tedious but unavoidable as the front of his house leads directly on to the street. At present the noise from the Premises is just about bearable however if the



hours are extended and continue until 12.30am – 1.00am then it will become intolerable. It is a residential area in a quiet village.

- 29.** Mr. Roberts had no objection to the earlier opening hours for breakfast, it was the later hours and music outside that was his main concern.
- 30.** The Sub-Committee asked if Mr. Roberts had submitted any complaints to Environmental Health regarding noise. Mr. Roberts advised that he had taken the view that any complaints should be settled amicably between neighbours and that was the advice on the Council's website. In the past the pub had responded well to concerns about noise. At present the noise was just about tolerable and to be expected living close to a pub, but having the hours of operation extended would be unbearable.
- 31.** In response to a question from the Sub-Committee, Mr. Roberts advised the licensing hours were observed reasonably well. The Magpie was run responsibly and they tried their best to manage the situation. There have been problems occasionally but they are not irresponsible.
- 32.** Mr. Roberts agreed that it would be helpful if any external music was turned off after 9.00pm, however music from inside would still be an issue. The windows of The Magpie were only a few feet from his property and the noise travelled through the walls. Their windows were not double glazed or noise reducing and although there was a condition on the licence requiring that windows were closed during regulated entertainment but he doubted that this would be observed. He would like the restrictions to be there but would not rely on them to prevent noise intruding into his home.
- 33.** Mr. Roberts was asked for his observations with regard to only recorded music being played after 9pm, and stated that it was the volume of the music being played that was the issue rather than the form of music.
- 34.** Mr. Tollitt who had also submitted a written representation made an oral representation at the hearing.
- 35.** Mr. Tollitt felt that his concerns had already been covered but advised that he was an experienced sound engineer and with regard to the playing of music, it was the level of amplification rather than the source of the music that was the problem. DJs playing music could be worse than live music and any amplified music after 11pm is distressing. There is no sound attenuation in his bedroom, which is next door to the pub. When parties are held, people open the windows because they are hot which makes the situation worse. The previous DPS had a number of late events and caused a lot of disruption. This had not been the case so far with the current DPS but he was concerned that this DPS may not be there in six months' time and the previous situation could return.

36. Mr. Tollitt was of the view that the applicant could request extensions when required; he was happy for soft drinks to be provided after 11pm but not alcohol.
37. In summing up, Mr. Reeves stated that the residents are clearly concerned about the extension of hours and live/recorded music. He was happy to reduce the hours of external music so it would cease at 9pm, however it was important that they could offer guests coffee and other drinks at the end of their meal and would ask for the extended hours to still be considered.

## **Findings**

38. The Sub-Committee has considered the representations made by the applicant and other parties and finds as follows: -
39. The Magpie is a public house which appears to the Sub-Committee to be taking steps to grow its business with an emphasis on providing quality food. The Sub-Committee was persuaded by the representation of the applicant that this application has been made to assist with this aim and there is no intention of the premises becoming a late night drinking venue.
40. The Sub-Committee was persuaded by the representation of the applicant that it is trying to work with the residents to ensure that the premises do not cause a nuisance to their neighbours. The Sub-Committee was encouraged that the Applicant agreed to a condition at the hearing that there would not be external music after 9pm.
41. The evidence of the representees demonstrated to the Sub-Committee that there has been considerable disturbance in the past from the premises especially under the previous DPS. The Sub-Committee noted from the representees that this had improved with the current DPS. However, the Sub-Committee is convinced by the evidence that the residents, especially those attached to the premises, still suffer from anti-social behavior and noise nuisance from patrons leaving the premises and from noise disturbance from the premises itself. It was noted that the adjoining properties noticed windows being opened during music being played (against the current condition).
42. The Sub-Committee considers that an extension of the hours could cause an increased nuisance for the residents with noise continuing to a later hour and this would be unacceptable. ~The impact on the residents needs to be balanced against the ambitions of the business. The Sub-Committee decided that the nuisance could be moderated and the ambitions of the business achieved by amendment to the hours and the imposition of conditions.

## **Decision**

- 43.** For the reasons stated above, the Sub-Committee has decided to:
- 44.** Grant the application in part subject to the amendment of the hours applied for and the imposition of conditions as detailed below.
- 45.** Late night refreshment from Monday to Sunday inclusive to be permitted from 23:00 – 23:30.
- 46.** Sale by retail of alcohol from Monday to Sunday inclusive to be permitted from 09:00 – 23:30.
- 47.** Condition 2 as set out in the application shall be amended to state “All external music to be turned off at 21:00 hours”.
- 48.** The opening hours of the premises shall be 08:00 – midnight Monday to Sunday inclusive.
- 49.** The Sub-Committee advises the applicant that it would be helpful to keep a record of all complaints and requests by residents in relation to licensable activities taking place at the premises.

## **Conclusion**

- 50.** That is the decision of the Sub-Committee. A copy of this decision has been provided to all parties to the hearing within 5 days of the Sub-Committee meeting.
- 51.** You have the right to appeal against this decision to the Magistrates’ Court within 21 days of receipt of this decision notice.
- 52.** 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.

Cllr Robin Sider - Chairman  
Cllr Tony Mitchell  
Cllr Susan Doran

Date of Decision: 19 December 2018  
Date of Issue: 21 December 2018