

**Minutes of the Licensing Sub-Committee
19 January 2015**

Present:

Councillor R.W. Sider BEM (Chairman)

Councillor S.A. Dunn and C.A. Bannister

In attendance for the applicant:

Mr Flavio Martignago, Premises Licence Holder and Designated Premises Supervisor (applicant)

Mrs Alice Martignago

Mr Richard Taylor, Gosschalks Solicitors and Premises Licence Holder's representative

Interested Parties in attendance:

Mr Sebastian Usher, interested parties

Mr Robert Field, interested parties

Mr Oliver Parr, interested parties

Councillor Ian Harvey, Ward Councillor for Sunbury East

Responsible Authorities in attendance:

Simon Bate, Elmbridge, Spelthorne and Runnymede

Police Licensing Enforcement Officer, Surrey Police

Leslie Spearpoint, Senior Environmental Health Officer, Spelthorne Borough Council

In attendance for the local licensing authority:

Reba Danson – Licensing Enforcement Officer

1/15 Application by Mr F. Martignago for a variation of a Premises Licence at The White Horse Public House, 69 Thames Street, Sunbury-on-Thames, TW16 6QU, in light of representations

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

The Chairman asked the applicant and the other parties 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 Assistant Chief Executive.

Prior to the hearing the applicant agreed to a condition proposed by the Council's Senior Environmental Health Officer and the Surrey Police Licensing Enforcement Officer to include a last entry policy that no person(s) enter the premises after 22.30.

Seventeen letters of representation had been received from residents living in the vicinity, one representation from the Ward Councillor for Sunbury East and

two from Responsible Authorities relating to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.

The hearing continued in accordance with the procedure.

With the consent of all parties, the applicant presented a document including photographs and menu information at the hearing which outlined their intentions for the premises.

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

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

The Chairman informed the applicant and interested parties that they would be sent a written copy of the Sub-Committee's decision with reasons, within five working days.

Resolved that the application by Mr F. Martignago for a variation of a Premises Licence at The White Horse Public House, 69 Thames Street, Sunbury-on-Thames, be granted in part with the addition of conditions for the reasons set out in the attached Decision Notice.

Please reply to:

Contact: Samuel Nicholls
Service: Corporate Governance (Committees)
Direct line: 01784 446240
E-mail: s.nicholls@spelthorne.gov.uk
Our ref:
Date: 23 January 2015

**SPELTHORNE BOROUGH COUNCIL
DECISION NOTICE**

in accordance with the LICENSING ACT 2003 s.23

Date of Licensing Sub-Committee: 19 January 2015
Application of: Mr Flavio Martignago
In respect of: The White Horse
Public House
69 Thames Street,
Sunbury-on-Thames
TW16 6QU

REASON(S) FOR HEARING: Relevant representations received from local residents concerning: -
1) Crime and Disorder – Anti-social behaviour.
2) Public Nuisance –noise and disturbance later at night from customers leaving premises

D E C I S I O N

GRANTED in part with additional conditions

With effect from 19 January 2015

1. The Sub-Committee had before it an application to vary the premises licence of The White Horse Public House, 69 Thames Street, Sunbury-on-Thames, TW16 6QU

Attendance

2. The following attended the Sub-Committee hearing on 19 January to make representations:
 - a. Simon Bate, Surrey Police Licensing Enforcement Officer
 - b. Leslie Spearpoint, Senior Environmental Health Officer
Environmental Health – Responsible Authority
 - c. Councillor I.T.E. Harvey – Ward Councillor
 - d. Mr R. Field - Interested Parties
 - e. Mr O. Parr - Interested Parties
 - f. Mr S. Usher - Interested Parties
 - g. Reba Danson, Licensing Enforcement Officer, Environmental Health

In addition further written representations were received from 14 other local residents.

Application

3. The application received on 18 November 2014 was to permit a variation of the premises licence as follows:
 - To extend to the finish time for the sale of alcohol to midnight Monday to Sunday inclusive.
 - To permit the provision of late night refreshment from 23:00 to 00:30 Monday to Sunday inclusive.
 - To remove all embedded restrictions contained within Annex 3 of the premises licence.
 - To amend the plans attached to the premises licence to permit licensable activities in the new dining/function room
4. The Licensing Enforcement Officer, Reba Danson, gave the Sub-Committee details of the history of the premises. She explained that the pub converted from a justices' licence to a premises licence in 2005, at which time no "simultaneous variation" was received. She confirmed that the White Horse was one of the few premises in Spelthorne licenced to sell alcohol for consumption on the premises that has the same terms as a licence issued under the 1964 licensing regime.

5. Ms Danson further explained that during the transitional phase of the Licensing Act 2003, a large number of premises had their existing licences converted into premises licences and applicants that did not seek to vary the licence simultaneously, under the transitional arrangements, automatically inherited 'grandfather rights'. Consequently the White Horse premises licence was still subject to the conditions and restrictions contained within the Licensing Act 1964 and these are known as "embedded restrictions".
6. Ms Danson explained that applicants that no longer wish for these embedded restrictions to form part of their licence must request their removal by way of a variation application. In most cases their removal will not impact on the licensing objectives and their removal can usually be achieved via a "minor variation".
7. Ms Danson also gave a brief overview of the management of the premises. She explained that she had undertaken unannounced licensing inspections at the premises in February 2014 and October 2014 and found the requirements of the Licensing Act 2003 to have been complied with. She explained that the premises were found to be well managed.
8. Ms Danson advised the Sub-Committee that no complaints from residents had been received in relation to the White Horse pub. However she emphasised that a high number of complaints had been received in relation to noise disturbance and anti-social behaviour in the general neighbourhood and this was an ongoing concern for residents. She explained that these complaints related to other premises in the area and residents were completing noise logs to build up evidence to substantiate these claims.

Evidence

9. The Sub-Committee has considered all 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.

Responsible Authorities

10. Two representations were received from Responsible Authorities, namely Surrey Police and the Council's Environmental Health Department. Both were satisfied with the current management of the premises and did not object to the application. However, both recommended the inclusion of a condition of a last entry policy designed to reduce the likelihood of anti-social behaviour and prevent public nuisance. This would ensure that the Licensing Objectives would be met.

Interested parties

11. The Sub-Committee received 17 written representations from interested parties and one representation from a Ward Councillor. In summary these representations concerned:

Crime and Disorder

- Anti-social behaviour at a later hour from customers leaving the premises

Public Nuisance

- Noise nuisance later at night from customers leaving and/or waiting for transport home
- Irresponsible and inconsiderate behaviour from customers including abusive language
- Bottles and glasses left on residents' properties later at night

Premises Licence Holder

12. The premises licence holder's solicitor, Mr Taylor, stated that the main objective was to increase the food aspect of the business by amending the Premises Licence to permit the sale of alcohol in the new dining area.
13. Mr Taylor explained that this was a 10 year project, taken on by the Mr and Mrs Martignago, to develop the White Horse from being a poorly run pub to a well-managed 'food led' gastro pub. Mr Taylor provided a menu and photographs at the hearing which outlined the plans and his clients' intentions for the premises to be focused on the sale of food. Mr Taylor emphasised that the applicant had applied for the extension of the sale of alcohol with the intention for alcohol to be ancillary to a main meal.
14. Mr Taylor explained that the applicant's motive for the provision of late night refreshment from 23:00 to 00:30 was to provide customers with what they wanted. Mrs Martignago explained that customers had indicated they would like to eat slightly later than presently permitted and not be restricted by the current licensing hours. She explained that food sales currently end at 21:30, which had been restrictive in the past and customers had to be asked to leave. Mr Taylor insisted that the extension of hours was merely for flexibility reasons as they wanted to offer the community an opportunity to consume hot refreshment after their main meal and stay slightly longer on the premises.
15. Mr Taylor highlighted that the applicant had no intention for the late night sale of alcohol (without a meal) and for the premises to become known as a late night drinking venue, which could attract migration from other licensed premises. For this reason the applicant agreed to the condition suggested by the Council's Environmental Health Department and Surrey Police of a last entry policy i.e. no person(s) to be admitted after 22:30.

Mr Taylor explained that his client would be satisfied if all that was granted at this Sub-Committee was the use of the new dining /room.

16. Mrs Martignago explained the Sub-Committee to an incident that occurred in the summer of 2014. Mrs Martignago specified that one complaint of noise disturbance had been received from Mr Usher in relation to loud music. Mrs Martignago explained that it had been a particularly hot summer's day and that a private party was being held at the premises. With all the windows opened, sound had emanated from the premises. Mrs Martignago stated that Mr Usher's complaint was dealt with immediately with the music being switched off.
17. Mr Taylor confirmed that the applicant has managed the White Horse pub in a responsible manner, similar to their management of the Three Fishes pub, which they managed for three years. The applicant employs a doorman at the premises on Friday and Saturday evenings from 17:00 until closing time, to protect the interests of the pub and the community as a whole. This ensures that underage persons are turned away and beer bottles (vessels) do not leave the premises. Mrs Martignago feels that that this is an extra service to the community and she stated that, despite being an extra cost for the business, it gave them peace of mind.
18. The applicant responded to a question of clarification sought by the Mr Usher. Mr Usher queried whether a guarantee could be made that the extension to the sale of alcohol would not intensify the noise emanating from people exiting the premises later at night and using the garden / terrace area. Mrs Martignago explained that they had introduced measures such as signs displayed near the exit to remind customers to leave the premises quietly. She explained that if they think that a customer may cause noise disturbance, they book a black cab. She explained that it was very hard to control this once customers had left the premises as it was only within her power to ask them to respect the residential area. She therefore could not give a guarantee to Mr Usher. Nevertheless Mr Taylor explained that customers would be leaving a restaurant environment not a 'high adrenalin' night club venue and thus would likely be quieter.
19. In relation to representations made by residents Mr Taylor stated that the applicant would be willing to reduce the use of the outside garden area for the consumption of food (10.30) and alcohol (11.30) if the Sub-Committee thought this would alleviate noise disturbance.

Responsible Authorities

20. Two verbal representations were received from Responsible Authorities.
21. Leslie Spearpoint, Senior Environmental Health Officer advised the Sub-Committee that the Council's Environmental Health Department had not received any noise complaints since the applicant took over the premises in October 2013. Furthermore no noise complaints had been received with regard to the Three Fishes Public House which the applicant had previously managed from November 2011 to February 2013. This was despite noise complaints being received on either side of that time

period. Mr Spearpoint's view was that the applicant managed the premises to a good standard.

22. Mr Spearpoint was particularly concerned that the proposed extension to the sale of alcohol to midnight could result in noise and other anti-social behaviour caused by people migrating from other public houses in the vicinity. In order to address this risk he recommended the inclusion of a condition of a last entry/re-entry policy whereby no person(s) to be admitted after 22:30. Mr Spearpoint noted that the applicant had accepted this condition prior to the hearing and therefore raised no objection to the application.
23. Simon Bate, Surrey Police Licensing Enforcement Officer advised the Sub-Committee that the police had not been required to attend the premises or received any reports or complaints, except for one unsubstantiated allegation in respect of crime and disorder.
24. Mr Bate noted that most of the current problems in the area related to noise nuisance and anti-social behaviour which emanated from other licensed premises. He explained that Surrey Police was satisfied that the White Horse pub had been managed responsibly.
25. In his representation, Mr Bate identified that Surrey Police was very concerned that the extension of the sale of alcohol to midnight could change that situation. Mr Bate felt that, with an extended hour of alcohol sales to midnight, there was a danger that the White Horse would suddenly become known as a late night drinking venue. This would attract customers who could have been drinking excessively elsewhere. Mr Bate explained that this situation could potentially create management difficulties. Customers might arrive from other licensed premises and it would be difficult to assess their alcohol intake, it not having been monitored over the course of an evening.
26. Mr Bate stressed that in order to address the concern of the White Horse becoming known as a late night drinking venue, Surrey Police strongly recommended a last entry policy. Mr Bate noted that the applicant had accepted this condition prior to the hearing and therefore raised no objection to the application.
27. Mr Bate mentioned in his closing submission that the White Horse had operated events under Temporary Events Notices in the past and that no problems had been reported.

Interested parties

28. In addition to his written representations (included in the Report), Mr Parr emphasised that his main concern was the impact of noise caused by people exiting the premises late at night. He explained that the licensing objective to prevent public nuisance was already regularly undermined on Friday and Saturday evenings through the noise generated by customers exiting public houses on Thames Street after current closing times. Mr Parr confirmed that he lived with his wife and elderly mother on the opposite side of the road to another Licensed Premises on Thames Street. He stated that they were often kept awake at night until 3.00am due to noise originating from inebriated people. He explained that

Thames Street was an extremely narrow street and that the peace and quiet of the area would be materially changed and intensified in the event that this application is granted.

29. Mr Parr opposed the extension of the opening hours to midnight for the entirety of the week as there was a danger it would increase public nuisance and create a dangerous precedent in the residential area. He felt that this could lead to the pubs in the area subsequently applying to extend their hours. Mr Parr was concerned that past events, which had allowed a temporary extension of late-night refreshment, had resulted in considerable noise nuisance and anti-social behaviour in the area and that this would reoccur if the application was granted.
30. Furthermore, Mr Parr felt that the additional condition agreed by the applicant, to provide a last-entry policy, would not address his concerns, which centred on the late night drinking element and closing times. He felt that this would make the situation worse and would create noise nuisance and anti-social behaviour.
31. In addition to his written representations (included in the Report), Mr Field provided representations at the hearing. He explained that his main concern was centred on the proposed extension of opening hours and the subsequent people who leave the premises on foot. Mr Field felt that it would add to the already existing anti-social behaviour and noise disturbance emanating from the area at night. He specified that this public nuisance occurred primarily at the bus stop on Thames Street and in the alleyway which leads to Orchard Meadow car park. Residents experience problems frequently and Mr Field felt that an extension of the White Horse Pub's opening hours would only exacerbate the situation.
32. Mr Field felt that the inclusion of the additional condition of a last entry policy would not address the problem of the White Horse Pub becoming known as a last stop late night drinking venue. He considered that people could quickly learn to arrive at the premises before 22:30 and then continue drinking at the premises until last orders at midnight. Mr Field's view was that this change would increase the likelihood of anti-social behaviour and noise nuisance caused by customers when exiting the premises.
33. Mr Usher provided a verbal representation in addition to his written representation (included in the Report). He explained that his concern was not regarding the way the White Horse pub was run as an establishment, confirming that he felt that the applicant managed the premises responsibly. However, Mr Usher also stressed his concern that the problems experienced in the area surrounding noise nuisance and anti-social behaviour could be intensified by the grant of this application..
34. Mr Usher stated that his daughter's sleep was frequently disturbed during the summer months by noise nuisance coming from the garden area and Thames Street. He mentioned that this, in turn, affected her work. Mr Usher felt that an extension to the sale of alcohol to midnight would contribute considerably to an already existing problem of noise disturbance in a very confined village area. He felt that eating and

congregating outside in the garden area should be restricted to 22:00, in order to mitigate the safety issues and public nuisance. Mr Usher stated that he understood that Mr and Mrs Martignago were trying to develop their business and livelihood but felt that there needed to be a balance between the neighbours' interests and the business's interest.

Ward Councillor

35. In addition to his written representation, Councillor I.T.E Harvey addressed the Sub-Committee on behalf of residents in the neighbourhood.
36. Councillor Harvey opposed the application as the extension of operating hours would increase noise, anti-social behaviour and similar disturbances around residential properties late at night. He stated that he was content with the proposal to permit licensable activities in the new dining / function room rather than for the whole premises.

Findings of the Sub-Committee

37. The Sub-Committee has considered the written representations made by the applicant, the responsible authorities and the interested parties. It also considered the oral representations made at the hearing by the applicant, the applicant's solicitor, Mr Parr, Mr Usher, Mr Field, Councillor Harvey, Simon Bate, Leslie Spearpoint and Reba Danson.
38. The Sub-Committee also took account of the authorities cited by Mr Taylor, namely the Thwaites case and the Jones and Chester Justices case.
39. The Sub-Committee established that the White Horse is a pub located in a residential area on the corner of Thames Street and The Avenue, Sunbury-on-Thames. It lies adjacent to a parade of shops, which includes a convenience store, post office, estate agents, tailors and opticians. It lies opposite The Phoenix Pub, 24-26 Thames Street and the Moon in Moon restaurant at 71 Thames Street and the Moon in Moon restaurant at 71 Thames Street. The Sub-Committee also notes that the pub is situated on a narrow road surrounded by numerous residential properties. The Sub-Committee considered whether the applicant could be relied upon to ensure that the extension of the hours for the supply of alcohol to midnight would not exacerbate the anti-social behaviour and public nuisance which is already prevalent in the vicinity.
40. The Sub-Committee notes that the applicant had previously managed the Three Fishes pub in Green Street (November 2011 to February 2013) to a high standard. The applicant maintained a good reputation with the locals. It heard from Surrey Police that no complaints had been received in respect to the Three Fishes pub in that time.
41. The applicant became the premises licence holder for the White Horse pub in October 2013 and the Sub-Committee heard from the Council's licensing officer that the requirements of the Licensing Act 2003 to have

been complied with and that the premises were found to be well managed. This view was echoed by Surrey Police and the Council's Environmental Health officer.

42. The Sub-Committee is therefore satisfied that the White Horse is well-managed by the applicant. The Sub-Committee also notes that the White Horse has managed to run events under Temporary Events Notices without problems and considered this to be a positive indication of responsible management.
43. The Sub-Committee finds the applicant's intention to increase the food aspect of their business to be genuine. The Sub-Committee was that the applicant had no aspirations to turn the pub into a late night drinking venue, which could attract customers who could have been drinking excessively elsewhere.
44. The Sub-Committee was supportive of the applicant's intention that its customers would be leave quietly due to the premises being a restaurant environment rather than a 'high adrenalin' night club venue.
45. However, the applicant's good intentions in this respect might not be enough to prevent the White Horse acquiring this label – particularly in light of an extension of drinking time to midnight.
46. The Sub-Committee finds that on numerous occasions there has been noise nuisance and anti-social behaviour emanating from outside the premises which could not be directly attributed to the White Horse pub. Yet, residents described noise nuisance and disturbances later at night from customers leaving premises in the area and waiting for transport home and congregating at the bus stop and nearby car park areas. There have also been incidents of irresponsible and inconsiderate behaviour in the vicinity including excessive noise and physical confrontation, on one particular occasion, which could not be attributed to the White Horse pub.
47. The Sub-Committee finds that incidents of anti-social behaviour cannot be directly attributed to the White Horse Pub as residents did not know where it had originated, however it acknowledges that residents are regularly experiencing noise disturbances, from people exiting the various licensed premises in the area.
48. The Sub-Committee understands how a pub in such close proximity to residential properties will have difficulty in creating the right balance between enjoyment for customers and a service to the community and preventing nuisance to its neighbours. Nevertheless it is the role of the Sub-Committee to balance these interests.
49. The Sub-Committee notes National Guidance which states that behaviour of customers beyond the immediate area surrounding the premises is a matter for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right.
50. The Sub-Committee notes that the applicant had employed a doorman on Friday and Saturday evenings to help the management ensure that the premises were run properly and to tackle issues such as underage

persons and drink vessels being taken outside the premises. Although the Sub-Committee considered this to be a responsible measure taken by the applicant, it was felt that the need for a doorman gave an indication of the issues faced by premises in the vicinity.

51. The Sub-Committee is satisfied that, against the backdrop of evidence, further measures are required to promote the licensing objectives for the prevention of public nuisance and crime and disorder.
52. The Sub-Committee acknowledges the risk identified by the Responsible Authorities, that the premises could become known as a last stop, late night drinking venue. The Sub-Committee notes the recommendation from the Responsible Authorities to impose a condition of last entry with no person(s) to be admitted after 22:30.
53. However, in light of residents' statements the Sub-Committee was persuaded that irrespective of a last entry policy being implemented there was a very real threat that the licensing objectives for the prevention of public nuisance and crime and disorder could be subverted.
54. The Sub-Committee finds that there would be a very real danger that customers migrating from other premises could quickly learn to arrive at the White Horse pub before the last entry time of 22.30 and continue drinking until midnight. The Sub-Committee identified that this would exacerbate the anti-social behaviour and noise nuisance already occurs late at night in the vicinity. The Sub-Committee considers that this would have a detrimental impact on the wellbeing of residents.
55. The Sub-Committee finds that the applicant would be unable to monitor the level of alcohol consumed by customers as their alcohol intake had not been monitored throughout the course of the evening. In turn this would be undermining the promotion of the licensing objectives.
56. The Sub-Committee therefore felt that a last entry policy was not a sufficient measure to prevent the premises becoming known as a last stop late night drinking venue as unmonitored customers could potentially enter the premises and consume alcohol, thus undermining the licensing objectives.
57. The Sub-Committee accepted the explanations of the Ms Danson and Mr Taylor in relation to the removal of the embedded restrictions and the amendment to the plans to include the new dining / function room. It noted there were no objections to these specific proposals from the Relevant Authorities or Interested Parties

Licensing Objectives

58. Taking each of the licensing objectives in turn, the Sub-Committee having considered the matters set before it make the following decisions on each of the four licensing objectives.
59. The Sub-Committee is persuaded that the promotion of the licensing objectives to prevent crime and disorder and public nuisance would be undermined.

Crime and Disorder

60. The Sub-Committee is persuaded that there is a very real danger that the extension of hours for the sale of alcohol would result in incidents of anti-social behaviour in the neighbourhood, irrespective of the addition of a last entry policy condition with no person(s) to be admitted after 22:30.
61. The Sub-Committee is persuaded by representations made by residents that the proposed condition of a last entry policy would not effectively prevent the Licensing Objective from being undermined. It felt that customers, migrating from other premises could quickly learn to arrive before the last entry time of 22.30 and continue drinking until midnight. The Sub-Committee anticipated that this would intensify the anti-social behaviour already experienced in the area and it would disrupt the restaurant atmosphere intended by the applicant.
62. The Sub-Committee took into account the concerns of Surrey Police and the Environmental Health officer that the premises could become known as a last stop drinking venue as many of the surrounding pubs closed at 23:00.
63. In seeking to strike a balance between the public interest and the interests of the applicant, the Sub-Committee noted Mr Taylor's comment that the applicant would be satisfied even if supply of alcohol was granted till 12 but restricted to the new dining / function room.
64. The Sub-Committee took in to account Mr Taylor's comment to emphasise that the main objective was to increase the food aspect of the business by amending the Premises Licence to permit the sale of alcohol in the new dining area.
65. The Sub-Committee finds that it is necessary for the prevention of crime and disorder to restrict the extension of hours applied for. The extension of hours for sale of alcohol will be extended to midnight (Monday to Sunday inclusive) but only within the new dining / function room only. Sale of alcohol within the rest of the premises will remain the same as set out in the existing licence.
66. The Sub-Committee took heed of Mr Taylor's assertion that the application had applied for the extension of the sale of alcohol with the intention for alcohol to be ancillary to a main meal. In order to ensure that the focus on development of the food business, as described by the applicant, in maintained, the following condition shall be imposed:-
"Between 23:00 and midnight, alcohol shall not be sold or supplied in the new dining / function room otherwise than to persons taking table meals there and for the consumption by such a person as ancillary to his meal and this shall be evidenced."
67. The Sub-Committee anticipates that this restriction to the extension of hours will prevent the premises becoming known as a last stop late night drinking venue. As a result, the Sub-Committee considers it very unlikely that the White Horse would attract migration from other licensed premises in the area. It felt that this approach would maintain the Licensing objectives for the prevention of crime and disorder.

68. A no entry or re-entry after 22.30 condition was proposed by Environmental Health and Surrey Police and voluntarily agreed by the applicant. The Sub-Committee considered this condition carefully but in light of the fact that the extended licensing time, up to midnight, has been restricted to the dining area, it was felt that the no-entry condition would not be necessary. Further, it would not be practical in terms of the operation of the rest of the premises for which the hours for supply of alcohol specified on the existing premises licence apply. Surrey Police, the Environmental Health officer and the Applicant agreed with this rationale when the approach was put to them in principle.

Public safety

69. The Sub-Committee has not received representations relating to public safety, which relates to safety within the premises and it is not necessary for the Sub-Committee to make a decision in this regard.

Public nuisance

70. The Sub-Committee is persuaded by the representations made by responsible authorities and residents that there was a very real threat that the licensing objective to prevent public nuisance would be undermined by extending the sale of alcohol to midnight.
71. The Sub-Committee recognises that although no specific complaints had been made in relation to the White Horse pub, residents were regularly experiencing noise disturbances in the vicinity later at night. It was noted that this disruptive behaviour was having an impact on the well-being and, in some cases livelihoods, of residents.
72. The Sub-Committee was also persuaded that on occasion residents had experienced noise nuisance emanating from the garden / terrace area of the White Horse later at night. It noted the specific complaint made by Mr Usher which was discussed by applicant at the hearing. .
73. The Sub-Committee finds that it is proportionate, for the prevention of public nuisance emanating from the garden / terrace area, to impose a condition to the premises licence. The Sub-Committee noted the applicant's suggestion in this respect and decided to impose the following conditions:-
- ⇒ No food will be consumed in the Garden / Terrace area after 22.30 on Monday to Sunday inclusive.
 - ⇒ No alcohol will be consumed in the Garden / Terrace area after 23.30 on Monday to Sunday inclusive
74. The Sub-Committee is concerned that the public nuisance problems (noise and shouting) experienced in the area could be intensified by extending the sale of alcohol to midnight Monday to Sunday inclusive as

it could attract migration from other premises and become a last stop late night drinking venue.

75. The Sub-Committee considers that it is necessary for the prevention of public nuisance to restrict the extension of hours applied for. As described above (in relation to crime and disorder), the extension of hours for sale of alcohol will be extended to midnight (Monday to Sunday inclusive) but only within the new dining / function room only. Sale of alcohol within the rest of the premises will remain the same as set out in the existing licence. This approach is supported by the condition described above (in relation to crime and disorder).
76. The Sub-Committee anticipates that this restriction would prevent the premises becoming known as a last stop late night drinking venue and therefore reduce the likelihood of public nuisance. This approach would still support the interests of the applicant by allowing them to increase the food aspect of the business through an extended hour of alcohol sales. The Sub-Committee finds that this approach will balance the public interest with the interests of the applicant.

Child protection

77. The Sub-Committee has not received representations relating to Protection of Children from Harm and it is not necessary for the Sub-Committee to make a decision in this regard.

Legal position

78. By virtue of the Licensing Act 2003 the Sub-Committee is entitled to consider on an application for a premises licence whether it should:
- Grant the application
 - Modify the conditions of the licence, by alteration, addition or omission
 - Reject the whole or part of the application

Decision

79. The Sub-Committee confirms that the application for the variation of the licence is granted in in part with addition of conditions.

Sale of alcohol

80. To extend the finish time for the sale of alcohol to midnight Monday to Sunday inclusive but only in relation to the new dining / function room indicated on the proposed ground floor plan, which accompanied the application.

Embedded Restrictions

81. To remove all embedded restrictions contained within Annex 3 of the premises licence.

Amendment to plans

82. The plans attached to the premises licence will be amended to permit licensable activities in the new dining /function room.

Provision of late night refreshment

83. To permit the provision of late night refreshment from 23:00 to 00:30 Monday to Sunday inclusive.

Conditions

84. In accordance with the operating schedule and as further amended by the police and the Environmental Health Department at this hearing we impose the following conditions (as proportionate measures necessary to achieve the licensing objectives on the prevention of public nuisance and Prevention of crime and disorder):
- ⇒ No food will be consumed in the Garden / Terrace area after 22.30 on Monday to Sunday inclusive.
 - ⇒ No alcohol will be consumed in the Garden / Terrace area after 23.30 on Monday to Sunday inclusive
 - ⇒ Between 23:00 and midnight, alcohol shall not be sold or supplied in the new dining / function room otherwise than to persons taking table meals there and for the consumption by such a person as ancillary to his meal and this shall be evidenced.

Conclusions

85. That is the decision of the Sub-Committee.
86. The Sub-Committee has decided to include the above conditions on this premises licence as being proportionate and necessary for the promotion of the licensing objectives. In seeking to attach conditions to the licence the Sub-Committee has considered the direct impact of the activities taking place at the licensed premises on members of the public, living working, or engaged in normal activity in the area concerned.
87. The Sub-Committee has sympathy with residents and recognises the real threat of increased anti-social behaviour, noise and nuisance. In addition the Sub-Committee would like to remind interested parties that if they have concerns about the running of the premises then these ought to be brought promptly to the attention of the designated premises supervisor, and the responsible authorities (Police and Environmental Health). This will enable residents' concerns to be logged, considered and dealt with.

RIGHT TO APPEAL

You have a right to appeal against this decision, which must be made to the Justices Chief Executive at the Magistrates court for the area in which the licensing authority is situated and within 21 days of receipt of this decision notice.

181 Appeals against decisions of licensing authorities

(1) Schedule 5 (which makes provision for appeals against decisions of licensing authorities) has effect.

(2) On an appeal in accordance with that Schedule against a decision of a licensing authority, a magistrates' court may-

(a) dismiss the appeal,

(b) substitute for the decision appealed against any other decision which could have been made by the licensing authority, or

(c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court,

and may make such order as to costs as it thinks fit.

Cllr R.W. Sider BEM - Chairman

Cllr C.A. Bannister

Cllr S.A. Dunn

Date of Decision: 19 January 2015

Date of Issue: 23 January 2015