

Please reply to:

Contact: Gillian Scott
Service: Committee Services
Direct line: 01784 444243
E-mail: g.scott@spelthorne.gov.uk
Date: 5 February 2020

Notice of meeting

Licensing Sub-Committee

Date: Thursday, 13 February 2020

Time: 10.00 am

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

To the members of the Licensing Sub-Committee

Councillors:

R.W. Sider BEM (Chairman)

S.A. Dunn

M. Gibson

Note: In the event of one of the aforementioned Licensing Committee Members being unable to attend or serve on this Sub-Committee another Member of the Licensing Committee will be called to serve in their place.

Councillors are reminded that the Gifts and Hospitality Declaration book will be available in the meeting room for you to record any gifts or hospitality offered to you since the last Committee meeting.

Spelthorne Borough Council, Council Offices, Knowle Green

Staines-upon-Thames TW18 1XB

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

AGENDA

Page nos.

1. Disclosures of Interest

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

2. To consider an application for a Premises Licence at The Phoenix, 26/28 Thames Street, Sunbury on Thames, TW16 6AF, in the light of representations

3 - 46

The Report of the Deputy Chief Executive is attached.

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

Licensing Act 2003

Hearing procedure for Licensing Sub-Committee – premises licence applications

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

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

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

GUIDANCE NOTES

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

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

Licensing Sub-Committee

13 February 2020



Subject	Application for a Full Variation to Premises Licence at The Phoenix 26/28 Thames Street, Sunbury-on-Thames, TW16 6AF.		
Purpose	For determination		
Report of	Deputy Chief Executive	Ward	Sunbury East
Contact	Paul Morey, Licensing Enforcement Officer, (01784) 446450		

Description and Location	<p>The Phoenix is a public house. It has residential properties to each side and its frontage faces further residential properties across Thames Street. The rear of the Phoenix has an outside bar, with seating for 150 people and an open view over the River Thames.</p> <p>Plan at Appendix A</p>
The Application	<p>The application is to vary the permitted hours for the sale of alcohol from the outside bar. The present hours are Monday to Sunday (inclusive) 11:00 to 21:00. The application seeks to amend the hours as follows:</p> <ol style="list-style-type: none">1. The outside bar will close at 21.00 hours on Sunday to Wednesday but 22.00 hours on Thursday, Friday, Saturday and Bank Holidays.2. The garden will close at 22.00 hours on Sunday to Wednesday but 23.00 hours on Thursday, Friday and Saturday, and 22.30 hours on Bank Holiday Sunday3. To amend the following conditions to read;<ul style="list-style-type: none">• Condition 5 – the outside bar will close at 21:00 hours on Sunday to Wednesday and 22:00 hours on Thursday to Saturday and Bank Holiday Sunday.• Condition 6 – the garden will close at 22:00 hours on Sunday to Wednesday and 23:00 hours on Thursday to Saturday and 22:30 on Bank Holiday Sunday.

	<p>4. To proceed with the removal of condition 7 and the amendment to condition 8 as outlined in the Representation from Environmental Health;</p> <p>“Signs will be displayed prominently in the garden informing customers that they must be mindful of the presence of local residents. Last orders for the garden bar is 21:00 hours on Sunday to Wednesday but 22:00 hours on Thursday, Friday, Saturday and Bank Holiday Sunday. The garden will close at 22:00 hours on Sunday to Wednesday but 23:00 hours on Thursday, Friday and Saturday, and 22:30 hours on Bank Holiday Sunday.”</p> <p>The application and subsequent amendments to the hours and conditions are attached at Appendix B.</p>
Representations	<p>Relevant representations have been received from 1 relevant authority and 5 other persons living nearby and are attached at Appendix D and E.</p>
Options	<ol style="list-style-type: none"> 1. The Sub-Committee is requested to consider the application for the grant of a premises licence on its merits. 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"> ▪ To grant the application subject only to such conditions as are consistent with the operating schedule and the mandatory conditions; or ▪ To grant the application and modify the conditions of the licence, by alteration, addition or omission, or ▪ To reject the whole or part of the application.

1. Background

- 1.1 The premises was issued Premises Licence No. 05/00614/LAPRE under the Licensing Act 2003 when the Act came into force in 2005.
- 1.2 The current licence permits the supply of alcohol Monday to Saturday from 11:00 to 23:00 and Sundays 11:00 to 22:30 and the sale of alcohol from the outside bar 11:00 to 21:00.
- 1.3 There are restrictions on the use of the garden as below:-
 - The outside bar shall close at 21:00 seven days a week
 - The Garden shall close at 22:00 seven days a week
 - After 22:00, a maximum of six customers will be allowed in the garden
 - Signs will be displayed prominently in the garden informing customers that they must be mindful of the presence of local residents and that last orders for the garden bar is 20:30 and that the garden must be vacated by 22:00
 - A minimum of 150 seats will always be provided for customer use in the garden whenever the premises are open for licensable activities
 - Waiter/waitress service will be available to customers in the garden
 - There will be CCTV camera coverage of the garden whenever the premises are open for licensable activities
 - Management and staff will monitor the garden and if necessary will request that customers respect the proximity of local residents.
- 1.4 The current licence does not include regulated entertainment of live and recorded music nor late night refreshments.
- 1.5 The current Premises Licence is attached at **Appendix C**.
- 1.6 A routine licensing inspection of the premises in December 2019 did not highlight any licensing issues or concerns. It was noted that although the new DPS Flavio Martignago (17.06.2019) held a meeting with the local residents when he first took over, this had not continued as required by the Licensing condition. However anecdotally Flavio Martignago and Alice Martignago state that they have spoken to the residents individually whilst they were using the bar.
- 1.7 There are 4 Temporary Event Notices recorded on the Licensing system since the change of DPS. These are as follows:-

- 2019-08-10 Extension of hours for the garden to 22.00 to 24.00, 16-08-2019 to 18.08.2019
- 2019-08-14 Extension of hours for the garden 23.30 (24.00), 31.08.2019 to 01.09.2019
- 2019-08-23 Extension of hours for the garden 22.00 and 24.00 for 2 days
- 2019-10-25 Halloween night 23.00 on the 31.10.19 till 1am on the 1.11.19

There are no reports of nuisance caused by these events.

- 1.8 There is one recorded noise complaint made to Environmental Health in August 2018. It was regarding noise and disorderly behaviour from patrons, including an allegation that an empty bottle of rum had been thrown into the complainant's garden. Noise monitoring sheets were dispatched to the complainant, however these were not returned.
- 1.9 The Joint Enforcement and Community Safety Teams have no records of any litter problems related to this public house and its immediate surrounding area.

2. Application Summary

- 2.1 The application has been amended twice (2) since its submission at the request of the applicant. The first amendment was to address a mistake in the hours and the second after a meeting held on 17 January 2020 between the applicant and a small number of those whom made representations. The committee should be aware that the new proposed hours are still not agreed by those making their representation.
- 2.2 The application now seeks to vary the licence to specify the following activities and respective timings and includes a proposal from Environmental Health representation to which the applicant has agreed:
 - The outside bar will close at 21.00 hours on Sunday to Wednesday but 22.00 hours on Thursday, Friday, Saturday and Bank Holidays.
 - The garden will close at 22.00 hours on Sunday to Wednesday but 23.00 hours on Thursday, Friday and Saturday, and 22.30 hours on Bank Holiday Sunday
 - Amend Condition 5 to read: Condition 5 – the outside bar will close at 21:00 hours on Sunday to Wednesday and 22:00 hours on Thursday to Saturday and Bank Holiday Sunday.

- Amend Condition 6 to read: Condition 6 – the garden will close at 22:00 hours on Sunday to Wednesday and 23:00 hours on Thursday to Saturday and 22:30 on Bank Holiday Sunday.
 - To proceed with the removal of condition 7 which reads: After 22.00, a maximum of six customers will be allowed in the garden;
 - Amend Condition 8 to read: Condition 8 –“Signs will be displayed prominently in the garden informing customers that they must be mindful of the presence of local residents. Last orders for the garden bar is 21:00 hours on Sunday to Wednesday but 22:00 hours on Thursday, Friday, Saturday and Bank Holiday Sunday. The garden will close at 22:00 hours on Sunday to Wednesday but 23:00 hours on Thursday, Friday and Saturday, and 22:30 hours on Bank Holiday Sunday.”;
- 2.3 The required notices have been displayed and published in The London Gazette (Hounslow) on 27 November 2019.

3. Representations

3.1 i) Representations from Responsible Authorities (RA's)

There has been one relevant representation received from an RA as amended 17 January 2020.

ii) Representations from ‘other persons’

Five relevant representations have been received from other persons and a further three from representations from those persons of this group, who also attended the meeting of 13 January 2020 and are attached at **Appendix E**.

- 3.2 The grounds for objection are summarised below in relation to each Licensing Objective.

Prevention of crime and disorder

The representations are concerned that the extended opening hours would lead to an increase in anti-social behaviour and drug use.

Public safety

A representation states that there is a general build-up of refuse, including broken glass and cigarette butts left by the patrons.

Prevention of public nuisance

It is stated that local residences are affected by the people using the garden. They are concerned that this disturbance will increase with later opening hours. This disturbance increases at closing time with patrons ordering taxis. During this period they state that there is swearing and litter is thrown into gardens.

- 3.3 Issues which are not relevant to the licensing objectives and cannot be taken into account by a Licensing Sub-Committee:
- Objections on the basis of need, or lack of need, for premises to sell alcohol

- Parking, or other issues relating to general amenity rather than licensing objectives.

4. Licensing Policy

4.1 The following sections of the Council's Licensing Policy are relevant;

- 9.0 ADMINISTRATION AND DECISION MAKING
- 24.0 CRIME & DISORDER
- 24.5 PUBLIC SAFETY
- 24.7 PUBLIC NUISANCE

5. National Guidance

5.1 The relevant section (chapter 9) of the National Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 on determining Premises Licence applications is relevant in the consideration of this application. (**Appendix F**)

6. Making a decision

6.1 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.

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

6.3 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.

6.4 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.

6.5 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.

6.6 In determining the application, the Sub-Committee will need to consider whether there is actual evidence of problems in relation to the licensing objectives at this premises. Where the representations are unable to provide evidence of observed problems, as in the case of a new licence application, the Sub-Committee should be convinced that there is a very real threat of the

fears or the dangers described in the representations actually occurring, before applying any conditions to address such fears or dangers.

Appendices:

Appendix A – site plan

Appendix B – application form

Appendix C – current premises licence

Appendix D – relevant representation from Responsible Authority

Appendix E – relevant representations from residents

Appendix F – Paragraph 9, National Guidance

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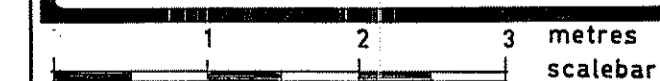
W. H. Brakspear & Sons, P.L.C.

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

Drawing Title

existing plans and rear elevation



Scale 1 : 50

Date 30 11 2015

Drawn by **APV**

Drg. No.	Rev
AAN:15:558 1	A

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Spelthorne
Application to vary a premises licence
Licensing Act 2003

For help contact
licensing@spelthorne.gov.uk
 Telephone: 01784 444202

* required information

Section 1 of 18

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

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

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

Are you an agent acting on behalf of the applicant?

☒ Yes ☐ No

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

Applicant Details

* First name

* Family name

* E-mail

Main telephone number Include country code.

Other telephone number

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

Is the applicant:

☒ Applying as a business or organisation, including as a sole trader

☐ Applying as an individual

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

Applicant Business

Is the applicant's business registered in the UK with Companies House? ☒ Yes ☐ No

Note: completing the Applicant Business section is optional in this form.

Registration number

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

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

Legal status

Continued from previous page...

Applicant's position in the business

Home country

The country where the applicant's headquarters are.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Agent Details

* First name

* Family name

* E-mail

Main telephone number

Include country code.

Other telephone number

☐ Indicate here if you would prefer not to be contacted by telephone

Are you:

☒ An agent that is a business or organisation, including a sole trader

☐ A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

Agent Business

Is your business registered in the UK with Companies House? ☐ Yes ☒ No

Note: completing the Applicant Business section is optional in this form.

Is your business registered outside the UK? ☐ Yes ☒ No

Business name

If your business is registered, use its registered name.

VAT number

Put "none" if you are not registered for VAT.

Legal status

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Agent Business Address

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

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 18

APPLICATION DETAILS

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

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

* Premises Licence Number

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

☒ Address ☐ OS map reference ☐ Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Continued from previous page...

Non-domestic rateable
value of premises (£)

44,200

Section 3 of 18

VARIATION

Do you want the proposed
variation to have effect as
soon as possible?

☒ Yes

☐ No

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

☐ Yes

☒ No

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

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

Describe Briefly The Nature Of The Proposed Variation

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

To vary the licence to amend the sale of alcohol from the outside bar to 11:00-22:00 seven days a week and amend and remove conditions as detailed below:-

Under Annex 3, Conditions attached after a hearing by the licensing authority March 2010 as amended by a decision following a hearing to consider a variation application May 2016.

1. Amend condition 5 to read "The outside bar shall close at 22.00 seven days a week".
2. Amend condition 6 to read "The Garden shall close at 23:00 Monday – Saturday and 22:30 Sunday".
3. Remove condition 7 which reads "After 22:00, a maximum of six customers will be allowed in the garden".
4. Amend condition 8 to read "Signs will be displayed prominently in the garden informing customers that they must be mindful of the presence of local residents".

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

Section 4 of 18

PROVISION OF PLAYS

See guidance on regulated entertainment

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

☐ Yes

☒ No

Section 5 of 18

PROVISION OF FILMS

Continued from previous page...

See guidance on regulated entertainment

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

☐ Yes

☒ No

Section 6 of 18

PROVISION OF INDOOR SPORTING EVENTS

See guidance on regulated entertainment

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

☐ Yes

☒ No

Section 7 of 18

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

See guidance on regulated entertainment

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

☐ Yes

☒ No

Section 8 of 18

PROVISION OF LIVE MUSIC

See guidance on regulated entertainment

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

☐ Yes

☒ No

Section 9 of 18

PROVISION OF RECORDED MUSIC

See guidance on regulated entertainment

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

☐ Yes

☒ No

Section 10 of 18

PROVISION OF PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

☐ Yes

☒ No

Section 11 of 18

PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

See guidance on regulated entertainment

Continued from previous page...

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

☐ Yes

☒ No

Section 12 of 18

PROVISION OF LATE NIGHT REFRESHMENT

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

☐ Yes

☒ No

Section 13 of 18

SUPPLY OF ALCOHOL

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

☒ Yes

☐ No

Standard Days And Timings

MONDAY

Start

End

Start

End

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

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

Continued from previous page...

SUNDAY

Start 11:00

End 22:30

Start

End

Will the sale of alcohol be for consumption?

☐ On the premises ☐ Off the premises ☒ Both

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

State any seasonal variations.

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

Non-standard hours and seasonal variations to remain as existing.

Sale of alcohol from the outside bar 11:00 - 22:00.

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

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

As existing - no change

Section 14 of 18

ADULT ENTERTAINMENT

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

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

None

Section 15 of 18

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start 11:00

End 23:30

Start

End

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

Continued from previous page...

TUESDAY

Start	<input type="text" value="11:00"/>	End	<input type="text" value="23:30"/>
Start	<input type="text"/>	End	<input type="text"/>

WEDNESDAY

Start	<input type="text" value="11:00"/>	End	<input type="text" value="23:30"/>
Start	<input type="text"/>	End	<input type="text"/>

THURSDAY

Start	<input type="text" value="11:00"/>	End	<input type="text" value="23:30"/>
Start	<input type="text"/>	End	<input type="text"/>

FRIDAY

Start	<input type="text" value="11:00"/>	End	<input type="text" value="23:30"/>
Start	<input type="text"/>	End	<input type="text"/>

SATURDAY

Start	<input type="text" value="11:00"/>	End	<input type="text" value="23:30"/>
Start	<input type="text"/>	End	<input type="text"/>

SUNDAY

Start	<input type="text" value="11:00"/>	End	<input type="text" value="23:00"/>
Start	<input type="text"/>	End	<input type="text"/>

State any seasonal variations.

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

As existing - no change

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

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

As existing - no change

Continued from previous page...

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

Condition 7 and part of condition 8 under Annex 3, Conditions attached after a hearing by the licensing authority March 2010 as amended by a decision following a hearing to consider a variation application May 2016.

Condition 7 - After 22:00, a maximum of six customers will be allowed in the garden.

Condition 8 - part being removed is "and that last orders for the garden bar is 20:30 and that the garden must be vacated by 22:00".

☒ I have enclosed the premises licence

☒ I have enclosed the relevant part of the premises licence

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

Section 16 of 18

LICENSING OBJECTIVES

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

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

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

We have considered the impact of the proposed alterations and do not feel that there will be any increased risk. No further steps will be necessary to promote the licensing objectives and the existing measures will continue.

b) The prevention of crime and disorder

See box a) above

c) Public safety

See box a) above

d) The prevention of public nuisance

See box a) above

e) The protection of children from harm

Continued from previous page...

See box a) above

Section 17 of 18

NOTES ON REGULATED ENTERTAINMENT

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08:00 and 23:00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08:00 and 23:00 on any day, on any premises.
 - o a performance of amplified live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08:00 and 23:00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - o any playing of recorded music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 18 of 18

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Variation Fees are determined by the non domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at http://www.voa.gov.uk/business_rates/index.htm

Band A - No RV to £4300	£100.00
Band B - £4301 to £33000	£190.00
Band C - £33001 to £8700	£315.00
Band D - £87001 to £12500	£450.00*
Band E - £125001 and over	£635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee

Band D - £87001 to £12500	£900.00
Band E - £125001 and over	£1,905.00

If you own a large premise you are subject to additional fees based upon the number in attendance at any one time

Capacity 5000-9999	£1,000.00
Capacity 10000 -14999	£2,000.00
Capacity 15000-19999	£4,000.00
Capacity 20000-29999	£8,000.00
Capacity 30000-39000	£16,000.00
Capacity 40000-49999	£24,000.00
Capacity 50000-59999	£32,000.00
Capacity 60000-69999	£40,000.00
Capacity 70000-79999	£48,000.00
Capacity 80000-89999	£56,000.00
Capacity 90000 and over	£64,000.00

* Fee amount (£)

ATTACHMENTS

AUTHORITY POSTAL ADDRESS

Continued from previous page...

Address

Building number or name	<input type="text"/>
Street	<input type="text"/>
District	<input type="text"/>
City or town	<input type="text"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text"/>
Country	<input type="text" value="United Kingdom"/>

DECLARATION

* I/we understand it is an offence, liable on conviction to a fine up to level 5 on the standard scale, under section 158 of the licensing act 2003, to make a false statement in or in connection with this application.

☒ Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

* Capacity

Date (dd/mm/yyyy)

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...

2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/spelthorne/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Curtis, Christine

From:
Sent:
To:
Subject:

Importance:

From: James Anderson <J.Anderson@popall.co.uk>
Sent: 15 January 2020 10:35
To: Morey, Paul <P.Morey@spelthorne.gov.uk>
Cc: Curtis, Christine <C.Curtis@spelthorne.gov.uk>
Subject: The Phoenix, 26-28 Thames Street, Sunbury
Importance: High

Paul,

I write further to our conversations and Christine's email.

I note that the hearing is now 13th February and thank you for agreeing to the adjournment.

I can confirm that there was a residents meeting at the premises on the evening of 13th January which was attended by Flavio and Gavin Mansfield the Business Development Manager for Brakspear's.

As a result of comments made by the residents in relation to the application, Brakspear's have agreed to amend the proposal such that it will apply on Thursdays, Fridays, Saturdays and Bank Holiday Sundays only.

In other words, on Sundays, Mondays, Tuesdays and Wednesdays the conditions will remain unchanged.

To clarify the application will now be for the following:

1. The outside bar will close at 21:00 hours on Sunday to Wednesday but 22:00 hours on Thursday, Friday, Saturday and Bank Holiday Sunday.
2. The garden will close at 22:00 hours on Sunday to Wednesday but 23:00 hours on Thursday, Friday and Saturday, and 22:30 hours on Bank Holiday Sunday.
3. To proceed with the removal of condition 7 and the amendment to condition 8 as outlined in the application.

It is hoped that on behalf of Flavio and Brakspear's this proposal and compromise will address residents' concerns.

Can I ask you please to forward this email to those local residents whose email addresses you have.

In relation to other residents, what is the best way of communicating this amendment to them? We do not have addresses so should we do a letter drop as before?

Kind regards.

Yours sincerely,

James Anderson
James Anderson | Partner

Poppleston Allen

E:J.Anderson@popall.co.uk | T:0115 9349 195 | M:07971 284 605 | W:www.popall.co.uk
Nottingham Office: 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS

Curtis, Christine

From: Morey, Paul
Sent: 04 February 2020 13:22
To: Curtis, Christine
Subject: FW: The Phoenix, 26-28 Thames Street, Sunbury
Attachments: Copy of letter sent to local residents.jpg
Importance: High

From: James Anderson <J.Anderson@popall.co.uk>
Sent: 30 January 2020 11:26
To: Morey, Paul <P.Morey@spelthorne.gov.uk>
Cc: Spearpoint, Leslie <L.Spearpoint@spelthorne.gov.uk>; Vicki Caress <v.caress@popall.co.uk>
Subject: The Phoenix, 26-28 Thames Street, Sunbury
Importance: High

Dear Paul,

I write further to your telephone conversation with Vicki

As discussed, I can confirm that the conditions under Annex 3 of the premises licence will now read as follows

1. Condition 5 – the outside bar will close at 21:00 hours on Sunday to Wednesday and 22:00 hours on Thursday to Saturday and Bank Holiday Sunday.
2. Condition 6 – the garden will close at 22:00 hours on Sunday to Wednesday and 23:00 hours on Thursday to Saturday and 22:30 on Bank Holiday Sunday.

We are happy to agree Mr Spearpoint's wording to amend condition 8 to replace the wording which we suggested in the original application.

I hope this assists but please do not hesitate to contact us.

I also attach a copy of the letter sent to local residents inviting them to meet at the pub

Kind regards.

Yours sincerely,

James Anderson

James Anderson | Partner

Poppleston Allen

E:J.Anderson@popall.co.uk | T:0115 9349 195 | M:07971 284 605 | W:www.popall.co.uk

Nottingham Office: 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS

PREMISES LICENCE

Premises licence number 05/00614/LAPRE
Issue Date 17 August 2012
Latest Revision 18 June 2019 (19/00486/LAPRE)

Part 1 – Premises details

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

Licensable activities authorised by the licence
Sale and supply of alcohol

The times the licence authorises the carrying out of licensable activities
Sale of alcohol Monday to Saturday: 11.00 to 23.00 Sunday: 11.00 to 22.30
Sale of alcohol from the outside bar 11.00 to 21.00
Non-standard Hours and Seasonal Variations: Sale of alcohol Christmas Eve, Christmas Day, Boxing Day, Good Friday, Saturday and Sunday following Good Friday, Easter Monday, Saturday and Sunday before Whitsun and August Bank Holidays, St Patrick's Day: finish 1 hour later than standard timings. New Year's Eve finish 2 hours later than standard timings.

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

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

Part 2

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

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

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

46656

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

Flavio Martignago
30 Dudley Road
Feltham
TW14 8EH

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

H03208- London Borough Of Hounslow

Signed_____

Senior Environmental Health Officer

Dated 3 July 2019

Annex 1 - Mandatory conditions

Mandatory Condition: where a premises licence authorises the supply of alcohol:

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

Mandatory Licensing Conditions

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

(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

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

3.

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

4. The responsible person must ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplies having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whiskey: 25ml or 35ml; and
- (iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);

(b) “permitted price” is the price found by applying the formula:

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

where—

P is the permitted price,

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

Mandatory Condition: door supervision

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

2. But nothing in subsection 1. requires such a condition to be imposed-

- a) In respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films), or

- b) In respect of premises in relation to –
 - I. Any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising films or under a gaming licence, or
 - II. Any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act.

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

Annex 2 - Conditions consistent with the Operating Schedule

The Prevention of Crime and Disorder

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

Public Safety

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

Public Nuisance

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

The Protection of children from harm

1. It will be requested that children are supervised in the garden
2. Proof of age policy shall be in place
3. Any cigarette and gaming machines shall be in a position that allows them to be easily supervised by staff

Annex 3 –

Conditions attached after a hearing by the licensing authority April 2008

1. Regulated entertainment to take place inside only with windows and doors closed so as to prevent noise to escape, and doors only to open to allow usual access and egress.
2. Incidental background music to be confined to inside the premises. (Though we note that the applicant and the interested parties may well come to an accommodation about this).
3. Notices to be placed in prominent places internally to provide phone numbers of local taxi firms.
4. No beverages in open containers to be taken off the premises.

Conditions attached after a hearing by the licensing authority March 2010 as amended by a decision following a hearing to consider a variation application May 2016

1. All bar staff are to be trained in relation to licensing law in relation to the licensing objectives, age restrictions and the terms and conditions of the premises licence. A record of this training will be kept at the premises by the DPS and refresher training on these issues will be delivered not less than every six months. The records of the initial training and refresher training will be available for inspection by a Responsible Authority on request
2. All incidents of crime and disorder will be reported to the Police and recorded in the premises incident book. In relation to all incidents of crime or disorder, all staff including the premises licence holder and Designated Premises Supervisor shall give full and unequivocal support to the Police in the investigation of incidents, including (where required by the Police) the provision of witness statements at the time of the incident and where applicable to share the information at Pubwatch meetings and nominate persons for a Pubwatch ban.
3. There will be sufficient staff on duty in the areas licensed for the provision of licensable activities to both deal with customers and report apparent crime offences to Police.
4. The CCTV system installed at the premises must cover the entire interior area licensed for the provision of licensable activities and the exterior entrance area. The recordings must be retained for a minimum period of 7 days and there will be a member of management on the premises at all times fully trained and competent in the operation of the system and able to produce a copy (immediately on demand) of footage to Police, Licensing Authority, Fire and Rescue Officers or Officers of any other statutory body making a lawful request for a copy. A paper copy of staff training records confirming such training will be kept on the premises and produced to officers of responsible authorities upon demand. Lighting in all areas shall be sufficient to result in good quality images being recorded by the CCTV system. "Good" quality images will be defined by the Police Crime Reduction Officer. The system must be tested in accordance with the Surrey Police Operational Requirement for Closed Circuit Television (CCTV) within Licensed Stores and General Premises Security (and any successor policy) including the daily checks therein. Any failures or breakages of CCTV equipment is to be reported as soon as practicable to the Police and Licensing Authority (and in any event this is to be done within 24 hours of the failure/ breakage) and steps are to be taken as soon as practicable to ensure that repairs are carried out and the equipment returned to full function.
5. The outside bar shall close at 21.00 seven days a week
6. The Garden shall close at 22.00 seven days a week
7. After 22.00, a maximum of six customers will be allowed in the garden
8. Signs will be displayed prominently in the garden informing customers that they must be mindful of the presence of local residents and that last orders for the garden bar is 20.30 and that the garden must be vacated by 22.00
9. A minimum of 150 seats will always be provided for customer use in the garden whenever the premises are open for licensable activities.
10. Waiter/waitress service will be available to customers in the garden
11. There will be CCTV camera coverage of the garden whenever the premises are open for licensable activities.
12. Management and staff will monitor the garden and if necessary will request that customers respect the proximity of local residents
13. Contact details (including telephone number) of the premises will be provided to local residents
14. The Designated Premises Supervisor will arrange a meeting with local residents at least every three months to discuss any issues arising from the operation of the premises.

Annex 4 – Plans

Attached

**The Phoenix Public House
26 – 28 Thames Street
Sunbury on Thames**

Chronology of Environmental Involvement

The premises are located at 26 – 28 Thames Street, Sunbury, with a beer garden facing the River Thames. On adjacent sides there are residential properties.

An application has been received, by W H Brakspear and Sons Ltd, the licence holder, to vary the Premises Licence.

The current licence has the following restrictions:

Sale of alcohol

Monday to Saturday: 11:00 to 23:00
Sunday: 11:00 to 22:30

Sale of alcohol from the outside bar
11:00 to 21:00

With non-standard Hours and Seasonal Variations for Christmas, New Year's Eve, Good Friday and Bank Holidays

In addition, there are conditions, restriction the use of the outside garden and bar, these are:

The outside bar shall close at 21:00 seven days a week.

The Garden shall close at 22:00 seven days a week.

After 22:00, a maximum of six customers will be allowed in the garden.

Signs will be displayed prominently in the garden informing customers that they must be mindful of the presence of local residents and that last orders for the garden bar is 20:30 and that the garden must be vacated by 22:00.

The application is to vary the restrictions for the use of the outside garden and bar, their proposals are:

To vary the licence to amend the sale of alcohol from the outside bar from 11:00 – 22:00 seven days a week and amend and remove the following conditions:

1. The outside bar will close at 21:00 hours on Sunday to Wednesday but 22:00 hours on Thursday, Friday, Saturday and Bank Holiday Sunday.

2. The garden will close at 22:00 hours on Sunday to Wednesday but 23:00 hours on Thursday, Friday and Saturday, and 22:30 hours on Bank Holiday Sunday.
3. Remove condition 7 which reads “After 22:00, a maximum of six customers will be allowed in the garden.”
4. Amend condition 8 to read “Signs will be displayed prominently in the garden informing customers that they must be mindful of the presence of local residents.”

The current Designated Premises Supervisor (DPS), Flavio Martignago, has been DPS at the Three Fishers Pubic House and is the current DPS at the White Horse Public House, in addition to The Phoenix Public House.

Whilst he was DPS at the Three Fishes Public House, 35 Green Street, Sunbury, from November 2011 to February 2013, Environmental Health did not receive any noise complaints concerning the premises. Environmental Health did received complaints about noise, coming from The Three Fishes, before and after these dates.

He became DPS for The White Horse Public House, 69 Thames Street, which is opposite The Phoenix, in April 2014. To date, Environmental Health have not received any noise complaints concerning the White Horse.

Flavio Martignago became DPS, for The Phoenix in June 2019. Since that date Environmental Health have been aware of the following Temporary Event Notices for the following events:

Temporary Event Notice submitted for 17.08.2019 and 18.08.2019 from 22:00-24:00 at The Phoenix Public House and for Extension of hours for the garden.
--

Temporary Event Notice Carnival weekend 23.08.2019 Requesting customers in garden until 23.30
--

Temporary event notice - End of school holidays Date: 31st August 2019-1st September 2019 Time: 22.00 till 24.00
--

Temporary Event Notice applied for Halloween party from 23:00 to 1 on 31 Oct. there will be regulated entertainment.
--

Following these events Environmental Health have not received any noise complaints, especially from the garden.

Environmental Health are fully aware of the history of these premises, prior to the last DPS in November 2015, taking over the premises, Simon Bailey, there were complaints about the loud music and other anti-social behaviour

being undertaken in the garden. In 2017, there was a request from neighbours to have a meeting concerning noise concerns. This was held. Concerns about the beer garden and way the pub was being managed, especially relating to an incident in July 2018, was raised with Environmental Health in August 2018, discussions were held with Licensing. No further noise concerns have been raised by neighbours, with Environmental Health.

There was a review hearing of the licence in 2016, when the restrictions that are subject to this application were added to the Licence. On viewing the application, Environmental Health would like the wording for condition 8 to read:

“Signs will be displayed prominently in the garden informing customers that they must be mindful of the presence of local residents. Last orders for the garden bar is 21:00 hours on Sunday to Wednesday but 22:00 hours on Thursday, Friday, Saturday and Bank Holiday Sunday. The garden will close at 22:00 hours on Sunday to Wednesday but 23:00 hours on Thursday, Friday and Saturday, and 22:30 hours on Bank Holiday Sunday.”

This will reduce any conflict when staff close the garden bar and ask customers to leave the garden. The reason for this, is that Environmental Health, believes it will promote the public nuisance objective under Licensing.

Leslie Spearpoint
Senior Environmental Health Officer
17th January 2020

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National Guidance under s182 of the Licensing Act 2003

9. Determining applications

General

9.1 When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made in accordance with section 17 of the 2003 Act, and in accordance with regulations made under sections 17(3) to (6), 34, 42, 54 and 55 of the 2003 Act. It must similarly determine applications for the grant of club premises certificates made in accordance with section 71 of the 2003 Act, and in accordance with regulations made under sections 71(4) to (7), 84, 91 and 92 of the 2003 Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with those regulations.

Where no representations are made

9.2 A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn. In these cases, the licensing authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act. This should be undertaken as a simple administrative process by the licensing authority's officials who should replicate the proposals contained in the operating schedule to promote the licensing objectives in the form of clear and enforceable licence conditions. Licensing authorities should not hold hearings for uncontested applications, for example in situations where representations have been made and conditions have subsequently been agreed.

Where representations are made

9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

Relevant, vexatious and frivolous representations

9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.

9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.

9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.

9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub- committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.

9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.

The role of responsible authorities

9.11 Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.

Representations from the police

9.12 In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local areas⁵. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

⁵ Elections for Police and Crime Commissioners (PCCs) in all police force areas in England and Wales (except in London, where the Mayor of London has taken on the powers of a PCC in relation to the Metropolitan Police) took place on 15th November 2012. PCCs are expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol- related crime and disorder in their areas. However, the Chief Officer of Police will remain the named responsible authority under the 2003 Act.

Licensing authorities acting as responsible authorities

9.13 Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.

9.14 Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.

9.15 It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.

9.16 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other responsible authorities. For example, the licensing authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.

9.17 In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.

9.18 In these cases, licensing authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing. It is for the licensing authority to determine how the separate roles are divided to ensure an appropriate separation of responsibilities. This approach may not be appropriate for all licensing authorities and many authorities may already have processes in place to effectively achieve the same outcome.

9.19 Smaller licensing authorities, where such a separation of responsibilities is more difficult, may wish to involve officials from outside the licensing department to ensure a separation of responsibilities. However, these officials should still be officials employed by the authority.

Health bodies acting as responsible authorities

9.20 Where a local authority's Director of Public Health in England (DPH)⁶ or Local Health Board (LHB) (in Wales) exercises its functions as a responsible authority, it should have sufficient knowledge of the licensing policy and health issues to ensure it is able to fulfil those functions. If the authority wishes to make representations, the DPH or LHB will need to decide how best to gather and coordinate evidence from other bodies which exercise health functions in the area, such as emergency departments and ambulance services.

9.21 Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. This information may be used by the health body to make representations in its own right or to support representations by other responsible authorities, such as the police. Such representations can potentially be made on the grounds of all four licensing objectives. Perhaps the most obvious example is where drunkenness leads to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information will often be relevant to the public safety and crime and disorder objectives.

⁶ This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

9.22 However, health bodies are encouraged to make representations in respect of any of the four licensing objectives without necessarily seeking views from other responsible authorities where they have appropriate evidence to do so. There is also potential for health bodies to participate in the licensing process in relation to the protection of children from harm. This objective not only concerns the physical safety of children, but also their moral and psychological well-being.

9.23 Evidence relating to under 18s alcohol-related emergency department attendance, hospital admissions and underage sales of alcohol, could potentially have implications for both the protection of children from harm and the crime and disorder objectives. Health bodies can provide evidence to lead or support representations in relation to this objective. In relation to proxy purchases, data collected by health bodies could be used to inform other responsible authorities, including the police and licensing authorities, about a prevalence of proxy purchasing in a particular area. For example, the police could use this data to tackle instances of ‘shoulder tapping’ (where under 18s approach adults to buy alcohol on their behalf) and to suggest measures which retailers might be able to take to ensure, as far as possible, that they are not knowingly selling alcohol to an adult who is buying on behalf of a person aged under 18. Although less obvious, health bodies may also have a role to play in the prevention of public nuisance where its effect is prejudicial to health and where they hold relevant data.

9.24 DPHs and LHBs will need to consider how to collect anonymised information about incidents that relate to specific premises or premises in a particular area (for example, a cumulative impact zone). Many areas have already developed procedures for local information sharing to tackle violence, which could provide useful evidence to support representations. The College of Emergency Medicine has issued guidelines for information sharing to reduce community violence which recommends that data about assault victims should be collected upon admission to emergency departments, including the date, time and location of the assault – i.e. the name of the pub, club or street where the incident occurred. Sometimes, it may be possible to link ambulance callouts or attendances at emergency departments to irresponsible practices at specific premises, such as serving alcohol to people who are intoxicated or targeting promotions involving unlimited or unspecified quantities of alcohol at particular groups.

Home Office Immigration Enforcement acting as a responsible authority

9.25 The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State’s behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly.

Disclosure of personal details of persons making representations

9.26 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.

9.27 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.

9.28 Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.

9.29 For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.

9.30 The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

Hearings

9.31 Regulations governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.

9.32 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.

9.33 Regulations made under the 2003 Act require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.

9.34 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.

9.35 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.

9.36 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.

9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.

9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule.

Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.

9.40 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.

9.41 In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.

Determining actions that are appropriate for the promotion of the licensing objectives

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Considering cases where licensing and planning applications are made simultaneously

9.45 Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.