

LICENSING SUB – COMMITTEE

Tuesday 22 July 2025 10:00 at Guildhall Winchester

Report of the Service Lead for Public Protection

Contact Officer: Carol Stefanczuk

Tel: 01962 848188

Email: licensing@winchester.gov.uk

Application: Review of Premises Licence

Premises: The Rising Sun, 27 Spring Lane, Colden Common, Winchester,
SO21 1SD

Part A. Report

- 1 Application**
- 2 Responsible Authorities**
- 3 Other Representations**
- 4 Observations**
- 5 Conditions**
- 6 Other Considerations**

Part B. Appendices

- Appendix 1 Application**
- Appendix 1a Addendum to application**
- Appendix 2 Representations from Other Persons**
- Appendix 3 Map of representations and premises location**
- Appendix 4 Copy of current Premises Licence**

Part A.

1. Application

Applicant: Abby Toms, on behalf of Environmental Protection

Premises: The Rising Sun, 27 Spring Lane, Colden Common, Winchester, SO21 1SD

- 1.1 This report relates to an application to review the premises licence for the above premises, submitted in accordance with section 51 of the Licensing Act 2003.
- 1.2 The application was submitted on 28 May 2025 by Abby Toms, Environmental Protection Manager, on behalf of Winchester City Council's Environmental Protection team, a Responsible Authority as defined under section 13 of the Licensing Act 2003.
- 1.3 A copy of the application was served to the other Responsible Authorities and to the Premises Licence Holder on 29 May 2025.
- 1.4 The application relates to the prevention of public nuisance licensing objective following reports of noise disturbance from the premises and subsequent noise monitoring which was considered a statutory nuisance under the Environmental Protection Act 1990, and a public nuisance.
- 1.5 An Abatement Notice was served on Lucky Hoof 2023 Ltd (the premises licence holder) under section 80 of the Environmental Protection Act 1990, on 24 September 2024 – see Appendix D of the application (Appendix 1 of the report).
- 1.6 The applicant has requested that the current public nuisance conditions on the Premises Licence are removed and replaced with alternative conditions to ensure that the licensing objectives are upheld.
- 1.7 Lucky Hoof 2023 Ltd have held the premises licence since 29 August 2024.
- 1.8 No representations were received from any other Responsible Authority.
- 1.9 Four valid representations were received from 'Other Persons'. Three are in support of the review application and relate to the prevention of public nuisance licensing objective, and one is in support of the freeholder of the premises. A copy of the representations can be found at Appendix 2 of the report.
- 1.10 Notices of the hearing were sent to all Parties on 3 July 2025.

Designated Premises Supervisor

Jonathon Spencer

Relevant Representations

2. Responsible Authorities

All of the Responsible Authorities have been served with a copy of the application. The representations received are as follows:

Environmental Health

Applicant for the purposes of this case.

Hampshire & IOW Constabulary

No representations received.

Hampshire & IOW Fire and Rescue Service

No representations received.

Child Protection Team

No representations received.

Building Control

No representations received.

Head of Trading Standards

No representations received.

Public Health Manager

No representations received.

Home Office

No representations received.

Licensing Authority

No representations received.

Planning

No representations received.

3. Representations from Other Persons

Representations have been received from four 'Other Persons', 3 of which are in support of the application, one in support of the freeholder of the premises. The main concerns are regarding the prevention of public nuisance licensing objective.

Representations can be seen at Appendix 2.

4. Observations

- 4.1 The Sub-Committee is obliged to determine this application with a view to promoting the Licensing Objectives:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 4.2 In making its decision, the Sub-Committee is also obliged to have regard to the [National Guidance](#) and the Council's [Licensing Policy](#).
- 4.3 The Sub-Committee must have regard to all of the representations.
- 4.4 The Sub-Committee must take such of the following steps it considers appropriate to promote the Licensing Objectives:
- a) Grant the licence subject to conditions in accordance with the operating schedule (modified to such extent as the authority considers appropriate for the promotion of the licensing objectives) and the mandatory conditions;
 - b) exclude from the scope of the licence any of the licensable activities to which the application relates;
 - c) refuse to specify a person in the licence as the premises supervisor;
 - d) reject the application.

Terminal hours

The Sub-Committee should take account of the National Guidance and the Council's Licensing Policy with regard to terminal hours and take such steps as it considers appropriate to promote the Licensing Objectives.

(Licensing Policy 2.22 Part 4, A8, C4)

Licensing Objectives

Crime and Disorder

The Sub-Committee should consider any appropriate conditions to prevent crime and public disorder relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy 1.9, 2.9 - 2.11, 2.17, 2.19 – 2.21 and Part 4 Section A)

Public Safety

The Sub-Committee should consider any appropriate conditions relating to public safety having regard to the relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, B2, B3)

Public Nuisance

The Sub-Committee should consider any appropriate conditions to prevent public nuisance caused by noise pollution from the premises relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, Section C)

Protection of Children

The Sub-Committee should consider any necessary conditions for the Protection of Children relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, D6, D7)

Human Rights

It is considered that Articles 6 (right to a fair trial) 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to peaceable enjoyment of possessions) may be relevant. As there is a right of appeal to the Magistrates' Court, it is considered that there would be no infringement of Article 6. Article 8 is relevant, insofar as the nearby residents could claim that this right would be infringed by disturbance from customers. This should be balanced against the applicants' right to use of their premises under Article 1 of the First Protocol. Interference with these rights is permitted, where this interference is lawful, appropriate in a democratic society, and proportionate. Likewise, the residents may argue that their rights under Article 1 of the First Protocol would be infringed. If conditions are imposed, there should be no interference with any convention rights. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportionate.

Public Sector Equality Duty

The Public Sector equality duty must be taken in to consideration with all decision making. The duty is stated in section 149 of The Equality Act 2010. This application raises no considerations under this Act.

5. Conditions

5.1 A copy of the Premises Licence with existing conditions can be found at Appendix 4.

5.2 The current conditions relating to the prevention of public nuisance are:

1. All doors and windows that are capable of being opened directly to the outside of the premises shall not be kept open after 2300.
2. Live and recorded music and any amplified voice shall cease no later than 0000.
3. The volume of regulated entertainment shall be kept at a level as to be inaudible at the boundary of the premises after 2300.

5.3 The applicant has requested that all the existing public nuisance conditions attached to PREM241 be removed, and the following conditions be imposed on the Premises Licence:

1. The provision of live/ recorded music at the premises shall no longer be exempt from licensing requirements under the Live Music Act 2012. Accordingly, any performance of live/recorded music shall be subject to the conditions of this premises licence and shall not take place unless specifically authorised by this licence.
2. No live or recorded music shall be played outside.
3. The areas marked A and C on the attached map shall be used for patrons/ smokers. Area B shall only be used for car parking. [See map at Appendix G].
4. The garden area marked A on the map shall not be used by customers after the hours of 2230. [See map at Appendix G].
5. A suitable noise limiting device shall be installed and set at a level agreed with the Licensing Authority within 2 months. It shall thereafter be maintained in such a manner as to control all sources of amplified music at the premises in accordance with the agreement.
6. All windows and doors shall be kept closed (other than for access and egress) when regulated entertainment is being played.
7. The premises shall operate in accordance with a Noise Management Plan (NMP), to be agreed and approved in writing by the Licensing Authority within 2 months. The Premises Licence Holder shall ensure that the premises operates in accordance with the approved NMP.

6. Other Considerations

Council Strategy Outcome (Relevance To:)

This report relates to the 'Vibrant Local Economy' priority by working with partners and using powers available to us to make Winchester a safe and pleasant place to live, work and visit.

Resource Implications

No fee is applicable for this application. It is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

Appendices

1. Application from Abby Toms, on behalf of Environmental Protection
- 1a. Addendum to application
2. Representations Other Persons
3. Map of representations and premises location
4. Copy of current Premises Licence