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Representation - Variation to Premises Licence Rising Sun Colden Common (PREM241)

Thank you for your consultation on the Premises Licence Variation for The Rising Sun, Colden Common, Winchester, SO21 1SB submitted by Lucky Hoof 2023 Ltd.

This Premises has a history of having caused public nuisance and therefore not promoting the licensing objectives.

Following the erection of a wooden gazebo type structure close to the neighbouring property, an Abatement Notice was served on the Licence Holder in September 2024 in respect of external noise from this area. This was as a result of noise from loud voices, television and speakers in this area. Whilst the television was removed and speakers disabled; there were continuing issues with groups of patrons in this area late at night shouting / screaming.

There is no doubt that the wooden structure has encouraged big groups of patrons to sit outside and later at night. In my opinion it has been poorly sited, at approx. 1.2m from the boundary of the nearest residential property and due to its lightweight construction, would be impossible to sufficiently insulate so as to effectively attenuate noise from within it. The Planning Enforcement Team served an Enforcement Notice on Lucky Hoof 2023 Ltd in January 2025 requiring the structure to be removed. An appeal was lodged with the Planning Inspectorate in February 2025 and we are still awaiting a decision on this.

The reports of disturbance then started to include music noise from within the premises and independent recordings/ monitoring carried out by Environmental Health substantiated that this was causing a public nuisance.

I called the Premises Licence into review in May 2025 and the case was heard by Licensing Sub-Committee on 22nd July 2025. The Licensing Committee approved a new licence with a range of new conditions.

The Premises Licence Holder appealed this decision. The appeal is currently awaiting a hearing which is scheduled at Basingstoke Magistrates Court at the end of August 2026.

As a result, none of the conditions put forward by the Licensing Sub-Committee have taken effect. I am concerned that, despite all of the enforcement action and the review application, the affected neighbours continue to be disturbed by this premises since the case was first reported in 2024 and it has had a significant health impact on their lives.

The Applicant has now submitted this variation application to include a new indoor extension area, that does benefit from appropriate planning permission. They have taken the opportunity to propose a series of amended conditions relating to the prevention of public nuisance licensing objective. I have considered these proposals, but in light of matters discussed above, I do not consider these conditions are sufficient to achieve this licensing objective. To expand upon this concern, I have provided comments on these conditions and have then suggested amendments and additional conditions that in my view would achieve this licensing objective:

(The conditions proposed by the applicant are denoted by the numbers given in the application under the section 16 (d) on 'the prevention of public nuisance', with my comments following in green)

5. The areas denoted smoking area and hatched in green on the plan that accompanies this application shall be the only area used by patrons for smoking.

I agree that this could be a suitable location for smokers; however, my colleague Phil Tidridge was monitoring noise on Sat 7 Feb 2026 (2100-2230) and witnessed loud shouting and screaming in this area and no one was seen to manage this in the time that he was present. This smoking area therefore needs to be actively supervised (see comments regarding condition 11).

6. No alcohol shall be taken outside of the premises after 22:30 hours.

I do not agree with this condition as patrons might take a beverage outside at 2225 and sit there until 0000 drinking it and I don't think this would effectively reduce the dwell time outside.

7. All windows and doors shall be kept closed (other than for access and egress) when regulated entertainment is being performed.

I agree with this condition.

8. The premises shall deploy its best efforts to prevent patrons loitering in the outside area of the premises after 22:30 hours.

I do not think that this is an enforceable condition - what are a '*premises' best efforts*'? Therefore, I do not think it is appropriate.

9. No television set shall be used in the external wooden gazebo type structure situated in the area marked 'Gazebo Area' and hatched in blue on the plan that accompanies this application, or any other screen projecting television images, and nor shall any loudspeakers be used in this area.

I think this condition should refer to no televisions, screens or loudspeakers outdoors. I would caution against naming an area as the 'Gazebo area' in any condition and refer to it as the blue/ green hatched area, as the gazebo does not have planning permission and if the Planning Inspector determines it should be removed, a licence condition referring to the gazebo area may no longer be valid.

10. The Licence Holder shall install noise attenuating baffleboard materials to the external wooden gazebo structure situated in the area marked 'Gazebo Area' and hatched in blue in the plan that accompanies this application.

As mentioned, I do not consider it is possible to acoustically insulate this structure effectively against the transmission of sound from within it. This was a condition put forward by the Premises Licence Holder and agreed by the Licensing Sub-Committee in July 2025.

At any time since then, or indeed since the structure was erected, the licence holder could have done this but has not. I remain of the view that this area should not be used for outside seating. It is located 1.2m from the boundary of the neighbour's property and is not possible to insulate it effectively.

There is a large grassed established garden area further away that patrons could use as an alternative. I recognise the gazebo is subject to Planning enforcement action and that the Planning Inspectorate will be determining if it is a lawful development, but the appeal was lodged with them a year ago and there has been no announcement of a date when it will even be considered.

In the meantime, the neighbours are subject to regular groups of people shouting / screaming being exuberant especially in the warmer months. I continue to recommend that this area is prohibited for use by patrons. If the Planning Inspector later announces that the gazebo is lawful and can stay, the Applicant could then apply for a variation to allow its use subject to a condition such as this.

11. Noise Management Plan ('NMP'): The premises shall operate in accordance with a NMP to be agreed with the Licensing Authority. The Premises Licence holder shall ensure that the premises operates in accordance with the approved NMP.

This was a condition (along with condition 12 below) imposed by the Licensing Sub-Committee in July 2025 which was not disputed by the Premises Licence Holder. However, they appear to have made no attempt to write a noise management plan to date. I am disappointed that a NMP hasn't been included with this application. This condition, if imposed should have a short deadline. Alternatively, the Applicant may now wish to submit their full NMP (and patron dispersal policy) for consideration by the Licensing Authority and others. I would expect this to include strict controls on the management of noise from patrons externally including the active supervision of the smoking area and dispersal policy as mentioned below.

12. There shall be included in the NMP a patron dispersal policy from the premises to minimise noise disturbance to nearby residents after 22:30 hours. The policy shall be agreed with the Local Authority.

My comments above also apply to a Dispersal Policy, which would be expected as part of a Noise Management Plan.

13. 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.

Agreed

14. There shall be a maximum of three live music events per annum outside of the licensed premises. Such events must not be consecutive and last for a maximum duration of 4 hours, to finish no later than 20:00 hours.

I would expect this to read that 'There shall be a maximum of three live music events per annum held outdoors. Such events must not be consecutive and last for a maximum duration of 4 hours, to finish no later than 20:00 hours.'

15. Amplification of live music events outside the premises shall be by microphone only and shall not be by use of amplified instruments.

Outdoor live external events referred to in condition 14 shall use no amplification

16. There shall be signage positioned in prominent locations inside and outside the premises, particularly at exit points and paths, reminding patrons to respect the needs of residents and to leave quietly.

Agreed

17. The Licence Holder will not accept deliveries to the premises before 08:00 hours each day of the week.

Agreed and it is noted that this has been much improved since July 2025 (with the odd exception)

18. The Licence Holder shall provide to local residents a dedicated telephone number or email address to enable the premises staff at any time or day the premises are open to respond to any complaints alleging public nuisance. A written log book shall be kept of any complaints with times and dates together with the nature of the complaint and action taken. The log book should be available at all times to responsible authorities for inspection.

Agreed

Additional Conditions proposed

To further promote the licensing objective, the prevention of public nuisance, I would also propose the following additional conditions:

1. No external area shall be used after 22:00, except for smokers in the green hatched area, who will not be permitted to have drinks outside after this time.

Any condition relating to the outside would have to have the same hours of course should this one be agreed.

2. A suitable noise limiting device shall be installed and set at a level to be 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.

I am aware that the Applicant is not keen on this condition, but there has been ample opportunity to manage internal noise so as to avoid public nuisance. Despite this, we have continued to receive reports (and videos) of noise disturbance from music inside the pub. Sometimes the live bands cause issues and sometimes not. This needs some consistent and physical control which could be imposed through the use of a noise limiter.

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Please see representation regarding the Rising Sun

Thank you for your consultation regarding the Rising Sun and the Premises Licence Variation. Winchester City Council Enforcement department would wish to make representation in relation to the prevention of public nuisance grounds.

As you will be aware an abatement notice that was served by Winchester City Council Environmental Health Department. Winchester City Council Planning Enforcement team made the decision to serve an Enforcement notice in relation to the unauthorised erection of a gazebo/smoking structure that is included within the attached plan, this enforcement notice was served as a result of its siting being considered to have an unacceptable impact on residential amenity of neighbouring properties by way of noise and pollution and was therefore considered to be contrary to National Planning Policy Framework (NPPF) paragraphs 187(E), 198 and 200, policies MTRA1 and MTRA2 of the Winchester District Local Plan part 1: Joint core strategy (2013) and DM17 and DM20 of the Winchester District Local Plan Part 2.

The service of an Enforcement Notice followed the failure of a retrospective planning application (24/02809/FUL) to retain the unauthorised gazebo/smoking shelter. The Rising Sun Public House has chosen to appeal the service of this Enforcement Notice, the matter is currently awaiting determination by the Planning Inspectorate. The reference number for the Planning inspectorate appeal is APP/L1765/C/25/3361487.

The licensing variation shows the area that is subject to the enforcement appeal and therefore the variation would potentially approve an area that does not have planning permission for the aforementioned gazebo/smoking shelter and therefore the plan is not reflective of the current situation regarding Planning Permission that has been granted at the site.