

LICENSING SUB-COMMITTEE

Tuesday, 22 July 2025

Attendance:

Councillors

Laming (Chairperson)

Gordon-Smith

Langford-Smith

Others in attendance who addressed the meeting:

Councillor Susan Cook

Officers in attendance:

Carol Stefanczuk – Licensing Manager

Laura James – Senior Litigation and Licensing Solicitor

Caitlin Rowles -Trainee Solicitor

[Recording of meeting](#)

1. **TO CONFIRM A CHAIRPERSON FOR THE MEETING**

RESOLVED:

That Councillor Laming be confirmed as Chairperson for the meeting.

2. **DISCLOSURE OF INTERESTS**

There were no disclosure of interests made at this meeting.

3. **APPLICATION FOR A REVIEW OF PREMISES LICENCE - RISING SUN, 27 SPRING LANE, COLDEN COMMON, WINCHESTER, SO21 1SD (LR600)**

The Chairperson welcomed all those present to the meeting:

Applicant:

Abby Toms – Environmental Protection Manager, Winchester City Council

Phil Tidridge - Chartered Environmental Health Practitioner, Winchester City Council

Premises Licence Holder:

Jonathan Spencer – Premises Licence Holder (accompanied by Operations Manager)

Duncan Craig – Counsel for the Premises Licence Holder

Other Persons who have made written representations:

Councillor Susan Cook (representation on pages 58 to 61) - also speaking on behalf of Francesca Santovito (representation on pages 53 to 55) and Paul Gunter (representation on pages 56 & 57)

The Licensing Manager introduced the report which set out an application to review the premises licence, submitted by Abby Toms, on behalf of Environmental Protection for Winchester City Council (a responsible authority as defined under section 13 of the Licensing Act 2023) under section 51 of the Licensing Act 2003 for The Rising Sun, 27 Spring Lane, Colden Common, Winchester, SO21 1SD.

The application related 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. An abatement notice was served on Lucky Hoof 2023 Ltd (the premises licence holder who has held the licence since 29 August 2024) under section 90 of the Environmental Protection Act 1990 on 24 September 2024.

The applicant (Environmental Protection (a responsible authority)) requested that the current public nuisance conditions on the premises licence are removed and replaced with alternative conditions to ensure the licensing objectives were upheld. The suggested conditions were listed in paragraph 5.3 (page 11) of the report. In relation to suggested condition 7, it was requested that condition include Environmental Protection, to improve the noise management plan and provide a clear deadline, therefore a suggested alternative condition was proposed as follows:

‘The premises licence shall operate in accordance with a Noise Management Plan (NMP), to be agreed and approved in writing by the Licensing Authority and the Environmental Protection Team within two months of the 22 July 2025 hearing decision.’

The full application, together with a copy of the abatement notice was set out in Appendix 1 to the report.

The Sub-Committee were advised that no representations had been received from any other Responsible Authority. Four written representations had been received from ‘Other Persons’; three in support of the review application relating to the prevention of public nuisance licensing objective and one of whom was in attendance and addressed the Sub-Committee (also speaking on behalf of Francesca Santovito and Paul Gunter, who had also submitted written representations but were unable to attend the hearing) and one in support of the freeholder of the premises. The written representations were set out in full at

Appendix 2 of the report. The current premises licence was set out at pages 65 to 67 of the report.

The Licensing Manager drew the Sub-Committee's attention to the relevant sections of the guidance issued under section 182 of the Licensing Act 2003 (specifically paragraphs 16.36, 16.43, 16.44 and 16.55).

In conclusion, the Licensing Manager reminded the Sub-Committee that in their decision they must take the following steps that they considered appropriate to promote the licensing objectives. Any additional conditions considered by the Sub-Committee were subject to the premises licence holder being given opportunity to respond and explain how this may affect their business operation.

- (a) Modify the conditions attached to the premises licence, either permanently or temporarily for a period not exceeding three months;
- (b) Exclude a licensable activity from the premises licence, either permanently or temporarily for a period not exceeding three months;
- (c) Remove the designated premises supervisor from the licence;
- (d) Suspend the premises licence for a period not exceeding three months;
- (e) Revoke the premises licence.

The Sub-Committee's attention was drawn to supplementary information issued following the publication of the agenda pack listed as follows which contained proposed conditions and supporting documents submitted by the Licence Holder's Counsel, that had been published prior to the meeting taking place.

- (1) [Supplementary Agenda 1 – LR600 Appendix G Map and Proposed Conditions and Supporting document submitted by the Licence Holder's Counsel](#)

During proceedings, the Council's Senior Litigation and Licensing Solicitor advised the Sub-Committee that prior to the meeting commencement of the meeting she had been in brief discussion with the licence holder's representative and considered that there was merit in adjourning the meeting for further discussion in respect of the proposed conditions to take place.

The Chairperson announced there would be a short adjournment in proceedings to enable the premises licence holder's representative to engage in further discussions with the applicant (Environmental Protection) and the Council's Senior Litigation and Licensing Solicitor present.

The meeting was adjourned at 10.15 am and reconvened at 10.55 am.

Upon recommencement of the meeting, the applicant, Abby Toms representing the Environmental Protection Team at Winchester City Council (Responsible Authority) addressed the Sub-Committee setting out the application and responded to questions thereon.

It was noted that the application had been submitted as there were instances of noise nuisance from both inside and outside the premises after serving the

abatement notice. Observations of this were set out in the addendum to the report.

The applicant outlined that the main issues were due to noise from inside the premises from music late at night, the outdoor area (particularly from live bands) and the noise emanating from people sat in the wooden structure (indicated in photos on pages 25 to 27) which was situated exceptionally close to the neighbouring residential property.

Following discussions, the applicant reported that agreement had been reached on several conditions with the premises licence holder, these included:

1. The installation of internal and external CCTV (footage to be retained for a minimum of 28 days and made available to responsible authorities on request)
2. To remove all the public nuisance conditions attached to the existing premises licence PREM241,
3. A condition be agreed requiring the garden area to be closed after 2230 hours (it was emphasised that Environmental Protection considered the garden to be the grassed area, illustrated as Area A on the map set out in the report)
4. All windows and doors to be kept closed other than for access and egress when regulated entertainment was being played.
5. Noise Management Plan (NMP) to be agreed and approved in writing as detailed above.
6. The premises licence holder shall ensure the premises operates in accordance with the approved NMP.
7. The provision of live and recorded music outdoors:
Three event days to be permitted per annum (not consecutive days), finishing no later than 2000 hours for not more than four hours, located in the middle of grassed area A, with an amplified microphone, not amplified instruments, the exact location of area A to be measured. The NMP should include volume control and management of these events, with prior neighbourhood notification and communication throughout these events taking place.

In addition, the applicant and the premises licence holder had recently agreed conditions to better control the management of the premises and incidents of noise nuisance, these were set out on pages 4 to 11 on the supplementary agenda linked above.

The applicant emphasised that the outstanding points that had not been agreed related to the outdoor area B where the structure was located, whereby its use had resulted in a significant public nuisance impact on neighbouring residential properties. The structure was currently subject to planning enforcement notice and was not a matter for consideration by the Sub-Committee. In addition, it was recommended by the applicant that a suitable noise limiting device be installed and set at a level to be agreed with the Licensing Authority and the Environmental Protection Team within two months and thereafter maintained to control all sources of amplified music. However, the premises licence holder had not agreed to the applicant's recommendations in these instances.

The Chairperson then invited 'Other Persons' who had made relevant written representation to address the Sub-Committee.

Councillor Cook spoke in relation to her written representation, and also on behalf of Francesca Santovito and Paul Gunter who had also made written representations to the application and responded to questions of the Sub-Committee thereon.

The applicant then responded to the matters raised and the Sub-Committee then asked further points of clarification.

The premises licence holder, Jonathan Spencer, was then invited to address the Sub-Committee who was also represented by his Counsel, Duncan Craig. Mr Spencer set out his response to the complaints, his previous experience and background, the measures and conditions that had been imposed to address the concerns raised by the applicant and Other Persons who had made written representations. Both responded to questions of the Sub-Committee thereon.

In relation to the two areas of dispute, the premises licence holder advised that the cost of a noise limiting device would be approximately £4,000 and that from his experience these were sensitive to weather conditions adversely affecting their use. In respect of the wooden structure, the premises licence holder advised that until the appeal was determined, the enforcement notice was suspended and in effect the structure could continue to be lawfully used. It was confirmed that the TV and speakers previously used under the structure had been removed. Mr Spencer stated that he was willing to establish a means of contact for residents to report any noise concerns in the future and would undertake to attenuate the structure to reduce the sound of patron's voices and would be willing to agree a condition to implement these measures if required by the Sub-Committee.

In response, the applicant stated that their preference would be for use of the structure to cease until such time as any baffle boards had been installed. Counsel for Mr Spencer made reference to the statutory guidance setting out the general principles for consideration in the imposition of any conditions which must be appropriate to promote the licensing objectives and favoured stepped measures to enable the licence holder opportunity to demonstrate a changed approach.

Following the representations of all parties, the Council's Senior Litigation and Licensing Solicitor suggested that if the Sub-Committee were minded to impose conditions, it would be beneficial to bring these back to the hearing following their deliberations for the applicant and the premises licence holder to agree wording that would be clear and enforceable.

The Sub-Committee retired to deliberate in private. The council's Senior Litigation and Licensing Solicitor clarified that, any legal advice given during private session would be summarised upon the resumption of the Sub-Committee, in the interests of fairness and transparency of process.

The meeting was adjourned at 12.30 pm and reconvened at 2.15 pm.

Upon recommencement of the meeting, all parties were informed that legal discussion with the Sub-Committee had focussed on the decision to impose agreed conditions and additional conditions which were considered appropriate to address the issues raised during the hearing by the applicant and by 'Other Persons' who had submitted written representations. A discussion ensued at the hearing regarding the wording of conditions to ensure these were appropriate and proportionate.

The council's Senior Litigation and Licensing Solicitor stated that the nature of the conditions were to achieve a balance between the business and the locality, acknowledging this as a stepped approach to ensure that the prevention of public nuisance licensing objective was not undermined.

The proposed additional conditions were read out at the hearing, in draft form by the council's Senior Litigation and Licensing Solicitor as follows:

Furthermore, it was agreed that the council's Senior Litigation and Licensing Solicitor would circulate a written draft to Counsel for the premises licence holder and to the applicant, Environmental Protection (a responsible authority) for refinement after the meeting:

- (i) The existing public nuisance conditions attached to premises licence PREM241 be removed and replaced.
- (ii) Patrols by premises staff shall take place half hourly after 20:00 of the perimeter of the site to assess that there is no audible noise on the boundary of the site from the licensed premises;
- (iii) 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;
- (iv) Live music events in the garden unlicensed area be limited to 3 per annum, not be consecutive and to last no more than 4 hours and shall end no later than 20:00 hours;
- (v) Amplification of live music events outside the premises shall be by microphone only and shall not be by use of amplified instruments;
- (vi) Signage be placed in locations around the premises reminding patrons to leave quietly respecting the neighbourhood;
- (vii) All windows and doors shall be kept closed (other than for access and egress) when regulated entertainment is being played;
- (viii) No alcohol shall be taken outside of the premises after 22:30 hours;

- (ix) Noise Management Plan: 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. The NMP shall include provision for a suitable noise limiting device which 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;
- (x) The location of the noise limiting device within area B on the plan shall be agreed with the Local Authority within 2 months;
- (xi) The Licence Holder shall install noise attenuating baffleboard materials to the wooden structure located in area B to mitigate the transmission of voices, within 21 days;
- (xii) The Premises Licence holder will not accept deliveries to the premises before 08:00 hours each day of the week;
- (xiii) 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 logbook shall be kept of any complaints with times and dates together with the nature of the complaint and action taken. The logbook should be available at all times to responsible authorities for inspection.

In addition, the premises licence holder agreed to supply a clear plan of the premises by 25 July 2025, to avoid confusion over location of areas in issue, setting out where the natural path leads from the wooden structure and garden area to the smoking shelter area/terrace at the front of the premises and smoking area.

The council's Senior Litigation and Licensing Solicitor emphasised that the decision given at the hearing would be a summary only and the full decision would be provided in writing within five days of the hearing date, in accordance with legislation. The written decision would form the 'Decision Notice' in the event of any conflict with the oral summary.

In the closing statement, the Senior Litigation and Licensing Solicitor stated that the Sub-Committee had carefully considered the application, the representations made by 'Other Persons' and the applicant's evidence given at the meeting. It had taken into account the Council's Statement of Licensing Policy, particularly the policy in relation to public nuisance, set out in section C, the Public Sector Equality Duty, the Home Office Guidance issued under section 182 of the Licensing Act 2003, the duties under the Crime and Disorder Act 1998, and the rights set out in the Human Rights Act 1998.

The Sub-Committee gave regard to the licensing objectives and guidance, the representations received by all parties, and sought to achieve an appropriate

balance between the application, the likely impact on those living in the area and the business operated by the premises licence holder.

RESOLVED:

The Sub-Committee has concluded that the Premises Licence should be amended with new and modified conditions in accordance with section 52 (4) of the Licensing Act 2003, as set out in draft form by the council's Senior Litigation and Licensing Solicitor at the meeting in (i) to (xiii) above, with the full decision to be provided in writing within five days of this Sub-Committee hearing, in accordance with legislation and following refinement by the applicant and the premises licence holder.

All parties would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrates' Court within 21 days from the date of notification of the decision.

Following the meeting, the final wording of conditions, as referred to in the resolution above, was confirmed with revised wording which also related to an updated plan that was made available, the finalised conditions are set out as follows:

***FINALISED CONDITIONS:**

1. All of the Public Nuisance conditions attached to PREM 241 shall be removed and replaced with the conditions set out below.
2. CCTV- internal and external CCTV shall be installed, with footage retained for a minimum of 28 days and made available to responsible authorities upon request.
3. The areas marked D and E on the plan supplied by Applicant shall not be used by patrons after the hours of 22:30. Any smokers shall be asked to move to the front area marked B on the plan after this time. Area C is for the purposes of access only.
4. No alcohol shall be taken outside of the premises after 22:30 hours.
5. All windows and doors shall be kept closed (other than for access and egress) when regulated entertainment is being played.
6. There shall be half hourly patrols undertaken of the perimeter of the site commencing 20:00 hours by a member of premises staff to monitor that there is no clearly audible sound from the premises at the boundary of any residential property. Written records of these patrols shall be kept at all times on the licensed premises and shall record any incident and detail any action taken. Records shall be made available to responsible authorities on request.

7. No television set shall be used in the wooden gazebo type structure in Area D on the plan or other screen projecting television images, nor shall any loudspeakers be used in this area.
8. The Licence Holder shall install noise attenuating baffleboard materials to the wooden gazebo structure located in Area D to mitigate the transmission of voices, within 21 days.
9. Noise Management Plan: 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. The NMP shall include provision for a suitable noise limiting device which 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.
10. 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 within 2 months.
11. 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.
12. 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.
13. Amplification of live music events outside the premises shall be by microphone only and shall not be by use of amplified instruments.
14. 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.
15. The Premises Licence holder will not accept deliveries to the premises before 08:00 hours each day of the week.
16. 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 logbook shall be kept of any complaints with times and dates together with the nature of the complaint and action taken. The logbook should be available at all times to responsible authorities for inspection.

The meeting commenced at 10am, adjourned between 10.15am and 10.55am and between 12.30 pm and 2.15pm, and concluded at 2.50pm

Chairperson