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25 November 2014

Licensing Decision Notice

Background

1. Mr. David Prior, a resident, (**Applicant**) submitted an application for a review under section 51 of the Licensing Act 2003 (**Act**) of the premises licence for The Queens Head, Horsham Road, Dorking, Surrey, RH4 2JS (**Application**).
2. In accordance with section 52(2) Licensing Act 2003, a hearing was arranged and took place on 24 November 2014 at 10.00 in the Council's Chamber to enable the Council's Licensing Sub-Committee, consisting of Councillor Hancock, Councillor Preedy, and Councillor Yarwood to determine the Application. Councillor Preedy was elected chairman.

Attendance and Participation

3. The hearing was attended by:

On behalf of the Premises Licence Holder	James Anderson	Solicitor, Poppleston Allen
	Carole Syred	Designated Premises Supervisor (DPS)
	Simon Thornton	Representative of Fullers
Responsible Authorities	Murrae Hume	Surrey Police Licensing Officer
	Bob Whiting	MVDC Senior Environmental Health Officer

4. Neither the Applicant nor Other Persons who had submitted written representations supporting the Application attended the hearing.
5. With the exception of Simon Thornton, the Licensing Sub-Committee heard from each of those attending.

6. The Licensing Sub-Committee is satisfied that notice of the hearing was served on all relevant parties, and that all those entitled to speak at the hearing had an opportunity to do so.

Summary of Discussion

Responsible Authority – Surrey Police

7. Mr. Hume referred to a list of 19 incidents occurring in 2014 recorded by Surrey Police as connected to the premises. He noted that the list of incidents recorded both positive incidents (those reported by or on behalf of the DPS) and negative incidents.
8. Although Mr. Hume noted that there were a number of incidents involving disorder and/or noise after 00:00 hours, with 3 incidents occurring after 01:00, Mr. Hume stated that Surrey Police had visited the premises and that the conditions attached to the premises licence were being observed. The DPS is the secretary of the local area PubWatch scheme. Surrey Police did not consider that there were any alterations to the conditions that would benefit the premises in promoting the licensing objectives.
9. Mr. Hume advised the Licensing Sub-Committee that the Surrey Police local team, led by Sergeant Dean (Licensing Sergeant 2934 Dean) visited the premises fairly regularly. The level of recorded incidents was not extraordinary, and whilst it had more recorded incidents than some premises, this reflected the premises' later hours and its position on the route out of Dorking town centre. There was no evidence that people were entering the premises after 23:30 in breach of condition 1 Annex 3 (set out in LC2), rather that people (not necessarily customers of the pub) were loitering in the vicinity.

Designated Premises Supervisor (DPS)

10. Mr. Anderson reminded the Licensing Sub-Committee that a review of the premises licence was initiated by Surrey Police in December 2012. This had resulted in the imposition of the conditions set out in Annex 3 (LC2-LC3) including CCTV, registered door staff, last entry at 23:30 and the keeping of an incident log. Since the 2012 review, the number of incidents at the premises has reduced significantly. The DPS, who has been the DPS for over 20 years, keeps the incident log diligently and contemporaneously.
11. Referring to Surrey Police's list of recorded incidents, Mr. Anderson stated that enforcing the no-entry after 23:30 condition did cause some friction. He advised that the premises did 'police' the area outside the premises and called/collaborated with Surrey Police, and referred to 5 incidents demonstrating this. Mr. Anderson also referred to 2 incidents, which were connected to the premises as a result of the incidents being called in by or on behalf of the DPS, but which did not involve customers of the premises.
12. In relation to noise, the outside standing-only smoking area, which closes at 23:00, had been relocated over a year ago to the yard at the rear of the premises. The relocation had been supported by Surrey Police. To access the smoking area, customers had to go through two internal doors, which reduced noise escape.

13. The premises' regular DJ plays between 21:00 – 00:30 Fridays and Saturdays, and is positioned, together with the speakers, at the rear of the premises. After 23:30, the premises' door is only opened when customers leave, generally from 01:00 onwards, and most customers have left by 01:15. Live music is only played occasionally and stops at 23:00. The DPS reported no issues with keeping windows and doors closed, even in the absence of air conditioning. The DPS also goes to Crossways and Majestic Warehouse (approx. 40 metres from the premises) to monitor noise levels and is happy to meet with MVDC's Environmental Health Manager to consider measures to try to reduce noise escape.
14. In summary, Mr. Anderson submitted that:
- a. it was a well-run premises;
 - b. the 2012-imposed conditions had worked in promoting the licensing objectives;
 - c. the police had not initiated the review; and
 - d. in the absence of the Applicant or Other Persons at the hearing, and of any evidence supporting any interference with the terms of the premises licence, there were no measures available to the Licensing Sub-Committee.

Environmental Health

15. Mr. Whiting stated that:
- a. most complaints received by MVDC Environmental Health were retrospective and made on a Monday or a Tuesday;
 - b. the reported noise complaints related to noise in the street and not to noise escape from the premises.

Questioning by the Licensing Sub-Committee

16. In response to questioning, Mr. Anderson and the DPS clarified that:
- a. neither the doors to the smoking area at the rear of the premises, nor the internal doors leading to those doors, were propped open.
 - b. there were approximately 30 individuals on the PubWatch banned list and the DPS was diligent in ensuring such individuals were refused entry to the premises;
 - c. it was rare that the premises refused to serve an individual because of intoxication, as the DPS actively monitored this, but in that situation, the policy was to refuse to serve and ask the individual to leave the premises.
17. The Licensing Sub-Committee explored whether a condition restricting the playing of recorded music to 00:30 on Fridays and Saturdays in line with the premises' current practice or to 00:00 in line with the live music condition would be acceptable in terms of the impact on the premises. Although the first part of condition 4 Annex 2 ('Management will aim to restrict music at certain times') was so imprecise as to be unenforceable, Mr. Anderson submitted that a reduction to 00:00 would have an impact on the business and that there was no evidence to support a change to that condition. The DPS would continue to voluntarily stop the playing of recorded music at 00:30.

Decision

18. The Licensing Sub-Committee considered the written representations made by the Applicant and the Other Persons and the written and oral representations made by and on behalf of the DPS and each of the Responsible Authorities. In doing so, it was mindful of the statutory guidance issued under section 182 of the Licensing Act 2003, and of paragraph 11.20 which states that 'licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify, and that any remedial action taken should generally be directed at these causes and be no more than an appropriate and proportionate response'.
19. With respect to the promotion of the prevention of crime and disorder, the Licensing Sub-Committee found there were insufficient grounds to determine that the reported anti-social behavior in the vicinity of the premises:
 - a. arose from the licensed activities on the premises;
 - b. could be managed by imposing new, or modifying the existing, premises licence conditions.
20. The Licensing Sub-Committee gave weight to the representations made by Surrey Police, and had regard to both the list of Surrey Police's recorded incidents and to the DPS' own incident log-book. In relation to the written representations submitted in support of the Application, it was noted that:
 - a. the smoking area had been relocated to the rear of the premises;
 - b. the premises itself was located on a route homewards away from Dorking Town Centre;
 - c. the discarding of empty alcohol bottles had not been attributed to the premises. The existing licence conditions prohibited the taking of open vessels outside after 23:30, and the DPS stated that the premises served alcohol in glasses.
21. With respect to the promotion of the prevention of public nuisance, in the absence of noise logs and the absence of the Applicant and Other Persons at the hearing to expand on their written representations, the Licensing Sub-Committee found that there were insufficient grounds to determine that:
 - a. the licensed activities on the premises were causing a noise nuisance;
 - b. could be managed by imposing new, or modifying the existing, premises licence conditions.
22. The Licensing Sub-Committee gave weight to the representations made by Surrey Police that the licence conditions were complied with, and to the representations made by MVDC Environmental Health that the reported noise incidents related to noise in the street rather than noise escape from the premises.
23. The Licensing Sub-Committee therefore determined that the Application did not require it to take any further steps appropriate to promote the licensing objectives.
24. In reaching this decision, the Licensing Sub-Committee had regard to the Council's Statement of Licensing Policy dated January 2014 and to the statutory guidance issued under section 182 of the Licensing Act 2003 dated October 2014.

Rights of Appeal

25. The Applicant has a right to appeal to the Magistrates Court within 21 days of receiving this written decision notice.

Signature.....
Chairman