



LICENSING COMMITTEE

18 November 2008

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LICENSING COMMITTEE
FINANCIAL MONITORING STATEMENT
Figures to the end of October 2008

PROJECTED BUDGET AND FORECAST

	2008/09 Budget £'000	Future Years		
		2009/10 £'000	2010/11 £'000	2011/12 £'000
Approved Budget:				
Alcohol and related Licences	65	65	65	65
Gambling Licences	13	13	13	13
Total approved budgets	78	78	78	78
Approved and reported changes:				
<u>Changes approved in Financial Forecast (November 2007):</u>				
Reduction in net cost of Licensing service		-5	-5	-5
Other potential changes:				
None				
Latest Budget Projections	78	73	73	73

SAVINGS TARGETS

	2008/09 Budget £'000	Future Years		
		2009/10 £'000	2010/11 £'000	2011/12 £'000
Reduction in net cost of Licensing service		-5	-5	-5

CURRENT YEAR KEY BUDGET INDICATORS

	2008/09 Budget £'000	Budget to date £	Actual to date £	Variance to date £
Income from:				
Alcohol and related Licences				
Application fees	5,000	2,900	1,869	-1,031
Annual fees	52,000	4,200	7,947	3,747
Variation licences	4,000	2,300	2,240	-60

Licensing Committee Service Plan: October 2008 – March 2010

Summary

This plan reports on performance against those actions that the Council has agreed must be taken to meet service priorities for Licensing.

- It combines the targets that have been agreed within the –
- Combined Sustainable Community Strategy/Strategic Plan
 - National Indicator Set
 - Local Area Agreement (2008-11)
 - Comprehensive Performance Assessment Improvement Plans
 - Annual Efficiency Target
 - Corporate Governance Requirements
 - Equality Strategy
 - Risk Management Plan
 - 5 Year Financial Forecast
 - Data Quality Policy
 - Procurement Strategy
 - Published Service Standards
 - Implementing Electronic Government (IEG) Statement

- SCS
- NI
- LAA
- CPA
- AET
- CGR
- ES
- RMP
- FF
- DQP
- PrS
- PSS
- IEG

The 'Origin' column of the table below indicates the origin of the action point

W

Performance:



Progressing well

A

At risk of not being delivered and may require intervention



Failing



Action complete

Ref	Origin	Action	Project Lead	Implement by (not later than end March 2011)	Barriers to implementation / additional resources identified	Measurable outcomes	Performance	Comments
1	CGR	Comply with obligations placed on Runnymede by the Licensing Act 2003 – taking over alcohol licensing from Magistrates' Courts	Head of Env. Protection Licensing Officer	24 November 2005 for processing and issuing of licences	This depended on numbers of applications for licensing and review - temporary assistance of 1fte member of staff. The workload has been excessive for the Licensing Team who have had to re-direct resources to cope with the demand. Demands on staff time.	Compliance with legal timescales		40 Hearings 488 personal licences and 280 premises licences issued Compliance was achieved
2	CGR	Establish a Licensing Committee and meet the heavy demand of licensing applications from premises and persons during the 'transitional' period.	Head of Env. Protection Licensing Officer		The temporary post to be cancelled at end of December 2006, and then kept under review. Demands on staff time Member workload.	Compliance with legal timescales. Low proportion of hearings/app eals		Licensing Committee established.
3	CGR	Comply with legal requirements for renewal of Premises Licences September to November 2006	Head of Env. Protection Licensing Officer	Government has not announced date for renewal of licences	The temporary post to be cancelled at end of December 2006, and then kept under review. Demands on staff time	Compliance with legal timescales		Completed
4	CGR	Enforcement of Licensing Policy through the introduction of a three year inspection programme.	Head of Env. Protection Licensing Officer	Inspection regime to be completed by end of 2009.	Demands on staff time	Target of 90 inspections completed by end of 2006.		Inspections completed by end of October

Ref	Origin	Action	Project Lead	Implement by (not later than end March 2011)	Barriers to implementation / additional resources identified	Measurable outcomes	Performance	Comments
5	CGR	Review Licensing Policy	Head of Env. Protection Licensing Officer	December 2007. Legal requirement is once every three years	This work has been carried out using existing resources. Demands on staff time	Review completed by end of December 2007 in line with legal requirement		Review ongoing and 2 nd edition for 2008-2010 issued
6		Make licensing information available on the Council website	Head of Env. Protection Licensing Officer	Ongoing	This work has been carried out using existing resources. Demands on staff time, support from other departments	Application forms and all premises on website. Website able to process applications online for renewal of licences and new licences		Details of all premises licences and application forms are available on the Council website.
7	CGR	Information and training for Members on Licensing and Gambling	Head of Env. Protection Licensing Officer	September 2006	Demands on staff and Member time	New Member trained		New Members trained
8		Take responsibility for issuing Section 34 permits for gaming machines in non-licensed premises from the Department of Administration and Leisure	Head of Env. Protection Licensing Officer	End of March 2006	New part time post established in August 2007 primarily funded by gambling fee income. Demands on staff time	Issue Permits from April 2006 as and when renewals occur on a three year cycle		Permits now being issued by Licensing Team.

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Ref	Origin	Action	Project Lead	Implement by (not later than end March 2011)	Barriers to implementation / additional resources identified	Measurable outcomes	Performance	Comments
9	CGR	Comply with obligation to take on permits for gaming machines from Licensing Justices (Magistrates' Courts) Comply with obligations placed on Runnymede by the Gambling Act 2005 – taking over the licensing of gambling premises from Licensing Justices (Magistrates' Courts)	Head of Env. Protection Licensing Officer	24 November 2005 Act should be fully implemented by September 2007	New part time post established in August 2007 primarily funded by gambling fee income. Demands on staff time New part time post established in August 2007 primarily funded by gambling fee income. Demands on staff time	Issue Permits from November 2005 Adoption of Gambling Policy by end of 2006		Permits now being issued by Licensing Team. Policy issued
10	CGR	Information and training for Members on Gambling Act 2005	Head of Env. Protection Licensing Officer	Update on the Act by October 2006 and full training by end of December 2006	External trainer to provide training in January 2007 Demands on staff time	All relevant Members informed and trained		Members now trained

(Reply to go to Gerry Sutcliffe MP, Minister for Sport, DCMS 2-4 Cockspur Street
London SW1Y 5DH)

Thank you for seeking views regarding the above. Runnymede Borough Council's response is as follows:

It is agreed that the existing legislation does not go far enough to control the proliferation of lap dancing and similar establishments. Although there has not been a proliferation in this borough, indeed there are no such establishments presently in this borough, there is no doubt that it would be difficult to give proper regard to the objections that residents may justifiably have should an application be made. The reasons for this view are as follows:

1. Only residents who live in the vicinity can object, and not people who may be put off from visiting the area.
2. It would be difficult to prove that a particular harm, based on the licensing objectives, would arise as a result of the application.
3. Licensing authorities would not be able to take into account the kind of concerns or wider community issues that would be raised by residents for this type of application. Licensing authorities may only impose controls over such establishments if there are relevant representations and those controls must be necessary and proportionate to promote the licensing objectives only.
4. Licence decisions cannot take into account the demand for such establishments or the suitability of the location, except with regard to the protection of children from harm
5. The guidance issued to local authorities under section 182 of the Licensing Act 2003 makes it clear that the content of entertainment is not a relevant consideration for licensing although this will clearly be an issue for local residents.
6. There is now case law that representations that are speculative about a particular harm are not admissible and it would be very difficult for residents to provide evidence of harm in advance of a premises opening.

It is not considered that planning controls are sufficient to control the proliferation of such establishments. This is because any establishment that has an "assembly and leisure" planning use would not have to apply for a change of use to provide such entertainment. If they had an A4 (pubs etc) use, they may be able to argue that the entertainment was incidental to the main activity and therefore did not require an application to change that use.

One way forward would be to bring lap dancing into the same category as sex cinemas and sex shops, by amending the Local Government (Miscellaneous Provisions) Act 1982 in order to: a) give Local Authorities outside London the same power to regulate sex establishments as London authorities have; and b) remove the exemption for premises licensed for regulated entertainment or late night refreshment

This would give local authorities wider powers to regulate where, when and on what terms lap dancing and similar establishments may be established.

RUNNYMEDE BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

APPLICATION FOR REVIEW OF PREMISES LICENCE

**TCS (TOTAL), AYEBRIDGES SERVICE STATION,
THORPE LEA ROAD, EGHAM, SURREY, TW20 8HP**

DATE OF HEARING: 26 JUNE 2008

Members of Committee: Mrs P Broadhead (Chairman), D Parr and R Edis

Other persons present:

Applicant: Mr Philip Flower of Surrey County Council Trading Standards
Richard Medhurst of Surrey Police

Premises Licence Holder: Mr Martin Stafford - Solicitor for the Premises Licence Holder
Nerys Jones - Licensing Manager
Ranjan Adapa - Garage Manager and Designated Premises Supervisor

This is an application by Surrey County Council Trading Standards Department a "responsible authority" for the purposes of Section 13 Licensing Act 2003 for a Review of the Premises Licence held by Total UK Limited ("the Licensee") in respect of TCS (Total), Ayebridges Service Station, 171 Thorpe Lea Road, Egham, Surrey, TW20 8HP.

The Review was requested on the grounds of two of the four licensing objectives, namely the prevention of crime and disorder and the protection of children from harm.

The Licensing Committee heard from Mr Flower that there had been two test purchases carried out in respect of the premises, the first on 5 December 2007, when a 14 year old child volunteer was sold four cans of 5% strength lager. The seller was issued with a fixed Penalty Notice by the Police and no further action was taken against the company. At that time the Surrey County Council Trading Standards considered that the licensee had shown that reasonable steps had been taken to try and prevent the offence being committed. However, the licensee was advised to consider reviewing the methodology used to prevent under age sales. In particular, to consider auditing the use of the refusals register to identify members of staff who were not using the register according to licensee's policy, as this would allow appropriate action to be taken.

Following consultation with Surrey Police, four premises were identified as being of concern and test purchases conducted. Three produced negative results, with only TCS (Total), Ayebridges Service Station providing a failed test purchase. This being on 25 April 2008 when a 14 year old child was sold 4 bottles of WKD Alcopop. The seller was a different seller to the one involved in the sale on 5 December and was issued with a fixed Penalty Notice by the Police.

Mr Flower submitted that what was required was that there be a personal licence holder on the premises at all times when alcohol was being sold. Mr Flower contended that there was a general crime and disorder consideration, which was supported by Surrey Police but did not produce any direct evidence of a link between the operation of the premises and any particular crime and disorder concerns.

Mr Medhurst confirmed that there were concerns generally in the area from the sale of alcohol to under aged children, although he did concede that there was no present evidence linking the premises with crime and disorder issues arising from children having access to alcohol.

The Committee heard from Mr Stafford, who represented the licensee and from Nerys Jones, Licensing Manager as to the licensee's procedures and the training provided to staff. The Committee was shown the refusals log, which was not disputed as being in proper form and to contain the numbers of entries to

be expected from premises such as these, and staff training manual. The premises log was being audited and being signed off by the DPS or other Manager on a regular basis.

The designated Premises Supervisor, Mr Adapa, confirmed that he was not on the premises on the occasion of the first sale but was on the occasion of the second. He spoke with the staff member who conducted the sale and asked why he had not complied with policy. The answer he gave, which Mr Adapa related to the Committee, was that a queue had built up and he was under stress. The employee left the employ of the company the following day and is no longer in contact.

Mr Stafford reminded the Committee that any action taken must be necessary and proportionate, and in accordance with the guidance issued under Section 182 of the Licensing Act 2003. Mr Stafford argued against the imposition of any requirement that there be a Personal Licence Holder on the premises at all times when alcohol was being sold. He reminded the Committee that staff members were broadly trained and received tailored training as necessary. He made the point that a Personal Licence Holder was on the premises on the occasion of the second test purchase and still the sale had been made.

Mr Stafford argued against the suspension of the Premises Licence. He noted that there was no demand from the Applicant for Review for suspension, that there had been no failing on the part of the Premises Licence Holder and that suspension would be wholly disproportionate.

The Committee noted that three additional conditions were agreed.

The Committee carefully considered the guidance to which they had been referred and to the evidence presented by the Mr Adapa and Nerys Jones and were satisfied that the licensee had in place proper training and management measures. The Committee were not satisfied that it would be reasonable to require that there be a Personal Licence Holder on the premises at all times when alcohol was being sold. They could not see what difference this would have made and they noted that on the occasion of 25 April 2008, there had been a Personal Licence Holder on the premises, the DPS, and still the sale had taken place. The Committee were, however, concerned that the DPS, Mr Adapa, had said that the explanation for the sale given to him was that a queue had built up and the employee was under stress. The Committee felt that the DPS was in the building and the situation should not have arisen. They saw this as a failing in the local management of the store, whether as to numbers of employees on duty at any time or the assistance given to employees by the DPS. In their view, two failed test purchases reflected badly on the licensee and was a serious matter. Having regard to paragraph 11.6 of the Guidance, and of the action previously taken by Trading Standards following the earlier failed test purchase, in their view the matter required to be dealt with by more than simply the imposition of the conditions which had been agreed or by warning.

The Committee were aware that any decision taken by them needed to be necessary and proportionate and to have regard to the financial implications and impact on the Premises Licence Holder.

The Committee were satisfied that the licensing objective, namely the protection of children from harm was engaged.

The decision of the Committee is:

1. that the three conditions agreed between the parties be placed on the Premises Licence, namely
 - i) The Premises Licence Holder shall ensure that staff receive regular training and reminders (on a quarterly basis) in respect of preventing under age sales. The Premises Licence Holder will provide details of that training and a timetable for that training to Trading Standards on an annual basis;
 - ii) The Premises Licence Holder shall ensure that a refusals book is maintained and shall check the refusals book on a monthly basis. In addition, the refusals book shall be made available to Trading Standards Officers at their request;
 - iii) The Premises Licence Holder shall maintain an adequate CCTV system. Access to the system will be made available to Trading Standards Officers at their request.
2. that the Premises Licence Holder ensure that there be adequate numbers of properly trained staff on the premises at all times when alcohol is being sold;
3. the Premises Licence be suspended for a period of one week.

Appeal:

Any party to the Review who is dissatisfied with this decision, has a right of Appeal to the Magistrates Court at Woking within 21 days of being notified of this decision.

Informative:

The Committee gave a warning to the Premises Licence Holder that should the premises come before them again on review for failed test purchases in respect of sale of alcohol to under age children it should not expect to be dealt with so lightly.

RUNNYMEDE BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

APPLICATION FOR PREMISES LICENCE

WYEVALE GARDEN CENTRE, CROCKFORD BRIDGE FARM, NEW HAW ROAD,

ADDLESTONE, SURREY, KT15 2BU

DATE OF HEARING: 1 JULY 2008 & 9 JULY 2008

Members of Committee: Councillors Parr, Mrs Barden, Mrs Roberts

Other Persons Present:

Applicant: No attendances on first hearing of application; Mr Chris Wells the proposed DPS on the adjourned hearing.

This was an application by Wyevale Gardens Centre Limited in respect of premises at Wyevale Garden Centre, Crockford Bridge Farm, New Haw Road, Addlestone, Surrey KT15 2BU for a new Premises Licence under Sections 12 and 17 of the Licensing Act 2003.

The application was for the supply of alcohol both on and off premises, live music and recorded music. The times for each being 0900 start till 2000 finish Monday to Sunday.

Representations were received from the Planning Authority and from the Environmental Health Department of the local authority being responsible authorities and five representations from local residents being interested parties.

In the event the representations of the responsible authorities and all but one of the interested parties were dealt with by negotiation and the application amended and conditions agreed. The outstanding representation of interested parties concerned vandalism and the risk of break-ins at the site.

The Committee considered an email from Peter Rosser the Applicants Agent who apologised for being unable to attend the hearing. He explained that the premises currently had the benefit of premises licence but only for consumption of alcohol on the premises. The purpose of the application was to permit the sale of bottled beer and wine as off-sales, although this was likely to represent a very minor part of the business. The opportunity was also being taken to apply for live and recorded music to cover the situation where, for example, a promotion is being held and it might be appropriate to have live or recorded music. Mr Rosser also confirmed that the application was being amended so that the terminal hour for all licensable activity would be 1900 hours and that there would be no occasions of the premises being open until 2200 hours. He also agreed the conditions suggested by Daniel Bradding from Environmental Health.

The Committee having considered the application were concerned that there was no one present to answer a number of concerns they had. These were:

1. Does the store have a secure area to store alcohol when the store is closed to the public?
2. With regards to general health and safety of the public consuming alcohol on the premises and throughout the shop with glasses containing drinks, what safety measures will be in place?
3. Is there a CCTV security system and what staffing levels are proposed?
4. It is noticed that the proposed DPS does not yet have a personal licence is this still the case?

The Committee agreed to adjourn until the 9 July 2008 at 2pm for a representative from the applicant to be present to answer these concerns.

In the event Mr Chris Wells the proposed DPS attended and was able to assure the Committee as to the storage arrangements for alcohol. He explained that alcohol was only intended to be provided with meals and this was in half bottles of red or white wine and one or two bottled beers. It was not intended that members of the public would be permitted to wander around the premises with alcohol in hand, although the Committee did note what Mr Wells had earlier said that alcohol might be available on occasion with specially themed promotions. Mr Wells confirmed that there was not a CCTV system in place but one was presently being costed and was being programmed for implementation. He confirmed that he was still the proposed DPS and was awaiting the processing of his personal licence having yet to receive his CRB check.

Having heard from Mr Wells the Committee were satisfied that the limited stock of alcohol on the premises was securely stored outside trading hours and were re-assured that members of the public would not be walking about the premises with alcohol in hand. They remained concerned that there was no CCTV in operation and Mr Wells agreed that there would be no off-sales until such time as a CCTV system was in place. The Committee noted that the amended hours of operation complied with planning controls and had regard to the fact that a premises licence was already in place for the premises albeit restricted to on-sales only.

The Committee bearing in mind the premises are subject to Sunday trading restrictions as to opening hours were not satisfied that there was any good reason for the terminal hour on Sunday to be later than the normal closing which was 16.30.

The decision of the Committee is that the application is approved subject to the following conditions:

1. The terminal hour for supply of alcohol is 1900 hours Monday to Saturday and 16.30 hours on Sundays;
2. There is no occasional late opening beyond 1900 hours.
3. There be no off-sales of alcohol until such time as a CCTV system is installed, such system to be to the satisfaction of the Police and the Licensing Authority.
4. That on all occasions when regulated entertainment (other than incidental music) is provided the management shall carry out physical checks to ensure that noise is not escaping the boundary of the premises (being the perimeter boundary of the garden centre).
5. Such checks shall be carried out in the first 30 minutes of the commencement regulated entertainment, and hourly thereafter.
6. A written log of such checks shall be kept on site to be available for on site for inspection by the Licensing Authority or Environmental Health Department of Runnymede Borough Council at any reasonable time.
7. Where noise levels do escape the boundary of the premises management shall take all reasonable steps to reduce the noise levels so that they do not escape the premises boundary.

Reasons for the imposition of Conditions: to ensure the prevention of crime and disorder, the protection of children from harm and the prevention of public nuisance.

Appeal

If the Applicant or any other party who made a representation in respect of the Application is dissatisfied with this decision then he she or they have a right of appeal to the Magistrates Court at Woking to be exercised within 21 days of being notified of this decision.

Dated: 21 July 2008

RUNNYMEDE BOROUGH COUNCILLICENSING ACT 2003LICENSING SUB-COMMITTEEHEARING DECISION NOTICE

Applicant: Mr Mohammed Ahmad
Premises: Blue Ocean, Unit 2, Pycroft Road, Chertsey, Surrey, KT16 9HL
Hearing Date: Thursday 31 July 2008
Sub-Committee: Mr Chris Knight (Chairman), Mrs E Gill, and Mr R Jones

This was an application for a Temporary Event Notice (TEN).

The TEN was applied for was:

- 1) Hold an event called "Bollywood Night. DJ." from 18:00 to 00:00 (midnight) on 8 August 2008.
- 2) Provide regulated entertainment, late night refreshment and the sale by retail of alcohol.

The Applicant and his partner, Miss Shoba Gunamal attended and were not represented.

Surrey Police objected to the application and a Counter Notice had been served on the Applicant on Friday 25 July 2008 in accordance with Sections 104 and 105 of the Licensing Act 2003.

Mr Richard Medhurst, Licensing Officer for Surrey Police attended with Inspector Roger Nield, the Neighbourhood Inspector for Runnymede.

The Sub-Committee heard from Surrey Police first. Inspector Nield expressed his concern at the event going ahead without certain conditions being imposed to reduce the risk of crime and disorder. Inspector Nield informed the Sub-Committee of three incidents of assault at the Blue Ocean since the 21 June 2008. An offence of Actual Bodily Harm to a man who was forcibly removed from the premises on the 21 June 2008. An offence of Common Assault to a member of staff inside the premises on the 10 July and an offence of Grievous Bodily Harm at the premises between a male and female on the 18 July 2008.

Surrey Police also informed the Sub-Committee that they had received a number of telephone calls regarding noise complaints at the Blue Ocean from neighbouring residents. Residents complained of noise emanating from the premises and from customers congregating outside the premises with their drinks. The Police showed CCTV footage to support this.

The Applicant and his partner informed the Sub-Committee that a "Bollywood Night" was one giving people an Asian flavour, with Asian music and food. They explained that the evening would involve a two-course set menu with drinks and dancing, and that this was generally attended, as it had been in the past, by older rather than younger customers.

It was explained by the Applicant's partner that they had received complaints regarding noise at the last Bollywood Night, but this was due to the DJ that was hired for the evening. They informed the Sub-Committee that a different DJ would be attending on the 8 August, one more suited to Asian music where the bass would not be as loud as previously and one more suited to smaller events, rather than club nights and weddings as the previous DJ had been.

The applicant and his partner presented that the three incidents that the Police had talked of were not the norm at the Blue Ocean. The offence of Actual Bodily Harm on 21 June was an uninvited guest pestering ladies at the bar. He was removed from the premises by management and because he was so inebriated he fell over a planter outside the premises. The Applicant and his partner produced two statements from two *individuals on that day* who praised the way the management had handled the situation. The incident of the 10 July was an assault of the restaurant's chef, after two men had entered the restaurant's kitchen from the

back door. The Applicant and his partner believed that the third incident of 18 July was a personal matter between the male and female involved and could have occurred anywhere. A further letter was produced from the victim of the Grievous Bodily Harm on this night. The letter from the victim says that the incident was unavoidable and supports the restaurant's activities.

Having considered the application, the objections made by the Police and the submissions of the Applicant and his partner, the Committee's decision was as follows:

1. The TEN application was accepted with the following conditions:
 - a) A minimum of two SIA registered door staff are employed for the duration of the event and 30 minutes after the time it is scheduled to end. Such door staff should act in accordance with SIA guidelines. They badges should be worn and visible at all times when so employed and their details including SIA badge number should be recorded by management of the Blue Ocean before the start of the TEN. These records should be retained and also include the names and contact details of all staff employed at the event to be available to the Police for reference and retained for a period of not less than one year.
 - b) No drinks to be taken outside the premises whatsoever.
 - c) No tables and chairs to be located outside the property whatsoever.
 - d) No tickets or invitations to be available for entry on the day of the event.
 - e) Doors to be kept closed throughout the event to mitigate noise pollution save for access and egress.
 - f) Signs to be displayed outside the property requesting that customers are considerate to local residents and leave the premises quietly.
 - g) The regulated entertainment on the day of the event to finish no later than 23.30 hours.

A recommendation was made that as soon as possible a recorded CCTV system should be installed within the premises for the safety of staff and customers.

Reasons for the Imposition of the Conditions:

For the prevention of crime and disorder.

Appeals:

If the applicant wishes to appeal against this decision an appeal must be made to the North West Surrey Magistrates Court at Woking within 21 days of the date of receipt of this Notice.

Dated:

RUNNYMEDE BOROUGH COUNCIL**LICENSING SUB COMMITTEE****NOTICE OF DECISION**

Date of Hearing: 16 September 2008

Premises: Blue Ocean, Unit 2, Phoenix Plaza, Guildford Street, Chertsey,
Addlestone, Surrey, KT16 9GU

Licensing Sub-Committee: Councillors D Parr, P Francis and Mrs E Gill

This is an application by Runnymede Borough Council Environmental Protection Department, a responsible authority for the purposes of Section 13 (4) Licensing Act 2003 ("the Act") for a review under Section 51 of the Act of the Premises Licence held in respect of the above premises.

The review was requested on the grounds of Prevention of Public Nuisance. The Police, in supporting the application, were also concerned as crime and disorder.

The applicant was represented by Mr Peter Burke, Principal Environmental Health Officer, Mr Richard Medhurst represented Surrey Police and a Mr Pittard who is a person living in the vicinity of the premises made a representation and represented himself as a local resident.

The licence holder, Mr Mohammad Sutok Ahmed attended with Miss Gunaral his partner in the Blue Ocean, and they were represented by Mr Sole of KWW Solicitors. Mr Ringham of 20A Eastworth Road, Chertsey attended as a supporter of the Blue Ocean but was not called and had not made a representation.

The Committee heard that the premises currently trades as a restaurant, licensed for the sale of alcohol for consumption on the premises only ancillary to a meal and for late night refreshment.

The Committee heard from Mr Burke that there had been six separate occasions when complaints had been made to the Environmental Protection Department of loud music emanating from the premises. Mr Medhurst advised that there had been two occasions of serious assault on or about the premises, the first on 21 June, and the second on 18 July 2008. Mr Pittard told the Committee of the disturbance suffered by him as a nearby resident from loud music and numbers of people congregating immediately outside the Blue Ocean.

The Committee heard that there had been three applications for temporary event notices under Section 100 of the Act made by the premises licence holder, these for events on 12 July, 8 August and 5 September 2008. The Police had made representations in respect of the second of these and there had been a hearing on 31 July 2008 when conditions had been imposed. These were that there be two SIA door staff, there be no drinks or tables outside the premises, no tickets or invitations for the event to be available on the day of the event, doors to be kept closed throughout the event, there be appropriate signage and entertainment which would otherwise be regulated entertainment cease at 23.30 hrs.

The Committee noted that when the premises licence was applied for Mr Ahmed had assured the then Committee that his intention was to run a high class Indian Restaurant, and not a bar.

CCTV footage of an event of 18 July 2008 was shown. There was clear evidence from this of alcohol being consumed outside the premises. It was noted that the premises licence extended only so far as the boundary walls of the building and did not extend to the outside area. However, the lease for the Blue Ocean did extend to an area beyond that of the premises licence.

The CCTV footage ran through until past midnight and there were considerable numbers of people present outside the premises. There was no disorder evident. The CCTV did not have sound but the Committee noted that the presence of the numbers of persons shown would be expected to cause a considerable amount of noise. It was clear that alcohol and drinks were being taken from the premises to

this outside area and consumed there. It was also apparent from the CCTV that people were dancing inside the premises, although whether this was organised or ad hoc could not be said.

An email from Helen Jones, an Environmental Health Officer employed by Runnymede Borough Council, was presented to the Committee. This was in respect of a visit made by her and Aileen Baker to the premises on Friday 5 September 2008 between 21.50 hrs and 22.25 hrs. She noted that as they walked past the Blue Ocean music was clearly audible all the way round the premises and up to the train station. The upstairs windows were open and the music could be identified as coming from them. All windows were open downstairs and she noticed that the front window by the DJ box was opened fully. She estimated about 30 - 35 persons inside with about 5 - 7 persons dancing. There was a large flat television screen fixed on the wall that was showing Bollywood type dancing.

At the hearing Miss Gunaral said that all windows had been closed and she had verified this herself and had been outside the premises to ensure that there was no escape of noise.

Mr Ahmed, who told the Committee that contrary to appearances there was no intention to change the nature of the business from restaurant to bar. The Committee was told they had tried "spice lounge" evenings, where people would pay £3 for a plate of snacks and listen to lounge music, by which they mean dance club music. When asked about a flyer, which was shown to the Committee, which seemed to suggest that what was being provided was a dance club and late cocktail bar every Saturday at the Blue Ocean, both Mr Ahmed and Miss Gunaral denied this saying that the flyer clearly indicated that the Blue Ocean was a restaurant and lounge bar and that all that was provided was music. Miss Gunaral said that they were doing their best to ensure that there was no inconvenience to neighbours

The Committee was satisfied that the crime prevention and public nuisance objectives of the Licensing Act 2003 were engaged. They were satisfied that when music was being provided at the Blue Ocean it was provided at volumes which were likely to cause a nuisance to neighbours. In their view they were satisfied that notwithstanding what Mr Ahmed had said there was clearly an attempt to reposition the Blue Ocean more as a lounge bar/club than restaurant. The footage viewed by them of 18 July supported this. They were concerned that there had been two assaults on or about the premises and were satisfied that the numbers of patrons standing or seated outside the premises would give rise to a substantial amount of noise which would cause nuisance to residents in adjoining nearby flats. Members were concerned that what was claimed to be incidental music was being played so loud that it could not properly be regarded as incidental music.

They acknowledged that the nearby Caspari Restaurant was allowed outside seating, where patrons could take meals and alcoholic refreshment, but this was limited in time to about 22.00 hrs.

The decision of the Committee was that the following conditions should be imposed on the premises licence:

1. all doors and windows be kept closed at all times when incidental music was being provided (access and egress excepted);
2. no drinks to be taken outside;
3. tables and chairs only to be placed on the area covered by the premises lease and to be removed from the outside area by 22.00 hrs;
4. noise or vibration not to be audible or felt at the facade of any noise sensitive premises;
5. noise or vibration from incidental music, not to be audible outside the premises during the night hours (23.00 - 07.00);
6. prominent, clear and legible notices to be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and area quietly and when smoking outside to do likewise.

The premises licence holder was reminded that the premises licence provided for the supply of alcohol on the premises only and under the operating schedule is not to be sold or supplied on the premises otherwise than to persons taking table meals and for consumption on the premises as an ancillary to a meal by such persons.

The reason for imposition of the conditions was that the Committee was satisfied that the playing of incidental music at loud volumes had the potential for causing noise nuisance and engaged the public nuisance objective given the numbers of persons residing in flats near to the premises and surrounding the public square. Equally, people coming and going from the premises throughout the evening, in particular coming from the premises to smoke in the square had the potential for nuisance.

The Committee had concerns as to the reported crime and disorder but given that the premises licence restricted the sale of alcohol to on licence only and then ancillary to the provision of meals, they did not see that there was a particular potential for crime and disorder if the licence was complied with. The Committee was satisfied that in the event of temporary events, when regulated entertainment might be provided without being ancillary to alcohol and potentially spilling out into the public area, there would be potential for crime and disorder but that this would be dealt with by the imposition of appropriate conditions as suggested by the Police on any temporary event notice.

Appeal: If any party having made representations on the application is dissatisfied with this decision, then he or she or they may appeal to the Magistrates Court within 21 days of being notified of this decision.

Dated: 25th September 2008

A handwritten signature in black ink, appearing to read 'Daisy', written in a cursive style.

Signed: