

**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 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 at 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: 26<sup>th</sup> September 2008

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

Signed: