

RUNNYMEDE BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

HEARING DECISION NOTICE

THE HOLLY TREE, ENGLEFIELD GREEN- APPLICATION FOR REVIEW OF PREMISE LICENCE

**Members of the
Sub-Committee:**

Councillors David Parr (Chairman), Paul Francis and Parshotam Sohi

Applicant:

Peter Sims Director of Technical Services (Environmental Protection Division),
Runnymede Borough Council. Runnymede Civic Centre, Station Road,
Addlestone, Surrey, KT15 2AH.

Premises:

The Holly Tree, 5 St. Jude's Road, Englefield Green, TW20

Hearing Date:

Tuesday 16 November 2010

Summary of Application

1. The applicant as a Responsible Authority submitted an application to Runnymede Borough Council's Licensing Section as the Environmental Protection Division's Principal Environmental Health Officer was of the view that the premises licence holder had failed to take suitable and sufficient steps to prevent public nuisance arising from the premises.
2. The premises is licensed for the sale of alcohol, recorded music, live music (indoors and outdoors) until 0200 hours on Friday and Saturday, 0100 hours from Monday to Thursday and 23.30 hours on Sunday. The applicant submitted that the only public nuisance control measures referred to in the premises existing operating schedule related to escape of noise from inside the premises. The applicant believes that more controls are required to prevent further public nuisance arising from noise of patrons using the external areas at the frontage of the premises. The application contains details of a number of reported incidents and evidence of usage off the premises in CCTV footage.
3. The Licensing Authority has received eight representations relating to the Environmental Protection Divisions proposals.

In Attendance

Members of the Licensing Sub-Committee (shown above),

Derek Seekings, Senior Licensing Officer, Runnymede Borough Council

Rachel Pugh, Solicitor, Runnymede Borough Council

Clare Pinnock, Committee Officer, Runnymede Borough Council

For the Applicant:

Peter Burke, Principal Environmental Health Officer, Runnymede Borough Council

Daniel Bradding, Environmental Health Officer, Runnymede Borough Council

Interest Parties

Mrs J Pooley

Mr A Pooley

Mrs D Blay

Mr J Blay

Mrs Butcher

For the Premises Licence Holder

Mr M Phipps, Legal Representative from TLT, Solicitors

Ms. N Hodges, the designated premises supervisor

Ms C Edwards, the Area Manager, Punch Taverns

Mr & Mrs Smith of the Holly Tree

Note of the Hearing

Mr Derek Seekings, Runnymede Borough Council's (RBC) Senior Licensing Officer, presented his report relating to the application contained on page 5 of the Agenda.

Mr Peter Burke, Principal Environmental Health Officer (RBC) on behalf of the applicant presented details of his application. He highlighted that the Environmental Protection Division had received a number of complaints relating to the Holly Tree from four separate households alleging disturbance to residents on the 28 August 2010 between 23.00 hours and 0200 hours. A further complaint had been received by the Environmental Protection Division on the 4 September. Mr Burke referred the Sub-Committee to the log of complaints in Appendix 1 to his application. CCTV footage was shown to the Members of the

Committee which showed the area at the frontage of the Holly Tree being used by patrons on the evening of 28 August 2010. The sample of CCTV footage shown was taken between 23.00 hours and midnight.

Mr Burke acknowledged that the main concerns related to activities at the frontage of the property on the St. Jude's Road side in particular and recommended that to prevent further public nuisance the Committee considered placing additional conditions on the licence that:

- a. provides that patrons be cleared from external areas at the front of the premises by 22.30 and
- b. no drinks should be taken outside at all at the front and rear of the premises after 22.30 hours.

Representations from Interested Parties Supporting the Application

Mrs Jane Pooley made representations to the Sub-Committee on behalf of herself and her husband, Mr & Mrs Blay, Mr Livingstone and the Englefield Green Residents Association. She acknowledged that on most occasions the Holly Tree is well managed, however from time to time she stated that local residents have experienced problems such as noise, fighting, intoxicated customers, smashing things, littering and large numbers of people causing a nuisance through drinking and smoking between 11pm and 2am. The Committee heard evidence that the occurrence was largely at the frontage of the property, details of which were summarised in their written submissions. Mrs Pooley further referred to observations by Derek Seekings in his letter of the 25 August 2009 on page 13 of the Agenda and recommendations from Trevor Hartin from Punch Taverns PLC dated the 25 August setting out recommendations for improving management of the pub to avoid public nuisances occurring.

Mrs Pooley asked the Committee to consider the interested parties (supporting the application) recommendations which were:-

1. To remove the benches from the front of the property
2. To require the Holly Tree to make better use of their Courtyard which is accessible only via the pub.
3. To have signs erected at all times expressing the need for consideration to local residents.
4. To stop all noise from live entertainment after 11.00 pm from Sunday to Thursday and 12.00 pm on Friday and Saturday.
5. To require soundproofing.

6. To soundproof entry and exit.
7. To ensure that CCTV is installed inside and outside the premises.
8. To ensure that drinking and smoking is enclosed in the Courtyard outside the premises.

Mr Phipps' Submission on behalf of the Holly Tree

Mr Phipps stated that he was aware that there had been some public nuisance issues arising which to some extent had been dealt with already by his clients and he was aware that some conditions would probably be required to deal with some of the complaints arising from the local residents.

He did ask however that any conditions which are imposed should be proportionate and necessary to prevent public nuisance. He felt that the submissions from Environmental Health were fair and that his client would not object to them. However, he did state that his clients would object to banning of drinking outside of the frontage of the property or substantial reduction in the operating hours as this would fundamentally damage their business. He stated that it is a good premises which is well managed, students, old people and smokers alike are customers of the public house. He completely refuted the representation that the public house was badly managed at present and suggested agreeing to the conditions that Environmental Health propose together with some kind of prevention of the benches outside being used after a certain time through either tipping the benches up or for example, covering them with tarpaulin. He commented that his client would agree to a condition which imposed a deadline of 10 o'clock for the usage of the outside areas at the frontage of the property for patrons activities.

Members Questions

Councillor Sohi asked if Mr Phipps could clarify whether the benches at the front of the premises (on St Jude's Road) could be moved to the Victoria Street side and Mr Phipps said that his clients would try to avoid this situation.

Councillor Francis asked for clarification on off-sales due to the apparent use of the off-sales to permit drinking at the frontage of the property as the current premises as licensed defines the premises as the indoor areas only. Mr Phipps submitted that technically the off-sales license is being used to allow patrons to drink in those areas not shown on the premises licence.

Councillor Parr commented that he believed it would be unreasonable to remove the benches during the day as the disturbance appeared to be in the evening and the Committee were required to address the issues for which are reported as public nuisance.

Other Comments and Questions/Final Submissions

Mrs Pooley asked for tables to be tipped up against the wall after 09.00 pm or 9.30 pm and asked if Ms Hodges as the designated premises supervisor would meet with residents on a regular basis to discuss

issues. Ms Hodges agreed that she would, however, Councillor Parr pointed out that this particular point would need to be addressed outside the boundary of this Committee.

Mr Phipps reinforced his views regarding proportionality and reiterated the conditions upon which he and his clients would be prepared to agree.

The Decision

Following careful consideration of the Act and Section 182 Guidelines particularly relating to the public nuisance provisions, the Committee considered that the Holly Tree has been operating for some time with a very generous operating hours and limited restrictions. This was the first time that this public house had been brought for review and Members felt that in order to be proportionate, any conditions imposed at this stage should not be overly onerous as most of the public nuisance issues appear to be relating to noise emanating from the frontage of the property.

Accordingly Members agreed that the following conditions be attached to the Holly Tree's Premises Licence:-

- (A). Save for access or egress, patrons be cleared from the areas at the front and side of the property shown hatched blue on the attached Plan 1 by 22.00 hours.
- (B). Patrons shall not be permitted to take any drinks into the garden of the premises after 23.00 hours on every day.
- (C). Tables in the area hatched blue on Plan 1 are to be rendered unusable after 22.00 hours on every day.
- (D). No drinks are to be taken into the car park after 22.00 hours.

Point (D) relating to the car park condition was considered to be appropriate to ensure that once patrons have been removed from the area hatched blue on plan, they do not convene in the car park with their drinks as an alternative arrangement.

In making his announcement to the Committee of the Members Decision, the Chairman pointed out that the landlord must ensure that the public house is well managed and that no one in the surrounding area should lack sleep because of any inconsiderate behaviour by patrons managers or staff of the Holly Tree.

Should any party having made a representation to the Licensing Authority or Punch Taverns as the premises licence holder and Ms Hodges as DPS be aggrieved by this decision then they have the right of appeal to the North West Surrey Magistrates Court at Woking to be exercised within 21 days of being notified of this decision.