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Date: 3 February 2012

SPELTHORNE BOROUGH COUNCIL

DECISION NOTICE

in accordance with s.52 LICENSING ACT 2003

Licensing Sub-Committee	12 and 20 January, 3 February 2012
Applicant for Review	Councillor Alan Patterson
In respect of	Forest and Ocean, 13-15 High Street, Staines TW18 4QY
Respondent	Mr Sung Chul Lim

SUB-COMMITTEE DECISION WITH REASONS

Removal of licensable activities of regulated entertainment and provision of facilities for entertainment on Friday and Saturday nights. Modification of a condition.

With effect from the end of the period given for appealing against the decision or, if the decision is appealed against, the date on which the appeal is disposed of.

1. This Sub-Committee has before it an application for Review of the Premises Licence at Forest and Ocean, 13-15 High Street, Staines. The Review is brought by Councillor Alan Patterson.
2. The Respondent is Mr Sung Chul Lim who is the Premises Licence Holder.

ATTENDANCE

3. A number of people attended the Sub-Committee hearing to make representations. They are:
 - a. Councillor Alan Patterson, ward councillor for Staines, applicant for Review;
 - b. Sgt Scott, Licensing Sergeant for Spelthorne, Surrey Police, a responsible authority;
 - c. Mr Mark Hodgson, Environmental Health Officer, Spelthorne Borough Council, a responsible authority;
 - d. Mr John de Pear, interested party;
 - e. Mr George East, interested party;
 - f. Mrs Joanna Smith, interested party;
 - g. Dr Owen Goldring, interested party;
 - h. Mr Alex Wright of Counsel, representing the Premises Licence Holder;
 - i. Mr Peter Cheng, Solicitor, representing the Premises Licence Holder;
 - j. Mr Sung Chul Lim, Premises Licence Holder (with interpreter) and
 - k. Mr Steven Price, DPS (Designated Premises Supervisor)

EVIDENCE

4. The Licensing Sub-Committee has considered all of the relevant evidence made available to it, and in doing so has taken into account the regulations and national guidance under the Licensing Act 2003 and Spelthorne Borough Council's Statement of Licensing Policy.
5. The Sub-Committee heard evidence over two days on 12 January 2012 at the Council Offices and then again on 20 January at the Thames Club in Staines. The Sub-Committee considered its decision on 20 January and 3 February 2012.

Applicant for Review

6. Councillor Patterson outlined, in his written statement and in representations at the hearing, the reason why the application for review, made on behalf of local residents and businesses, was brought. This was due to concerns about the ability of the premises to uphold the licensing objectives, particularly that concerning prevention of public nuisance. The issues of concern related to:
 - a. The behaviour of Forest and Ocean patrons while in the environs of the premises including:
 - i. Loud noise: screaming; shouting; bad/offensive language
 - ii. Fighting resulting in personal injury

- iii. Using the locality as a toilet
 - b. Detritus in the locality of the premises
 - c. These incidents occurring frequently, at most weekends, and on occasions until 4am
- 7. The residents were aware that no other premises in the vicinity of the Market Square operated as late as the Forest and Ocean. Nearby residents were being disturbed by the noise and shouting of people leaving the premises after midnight; a time when it was reasonable to expect households to have settled for the night. The residents had told Mr Price that their quality of life was severely compromised because of anti-social behaviour on Friday and Saturday nights on a weekly basis.
- 8. Councillor Patterson had himself witnessed disturbances and anti-social behaviour whilst on visits with the 'street angels.' He confirmed that the people he had seen milling outside the premises could not be confused with patrons of the Aqua club (a nearby nightclub) as they would be coming from a different direction in Staines.
- 9. He had also observed door staff turning away customers who had then been brought back into the premises by Mr Lim. He confirmed that the people he had seen were not of Korean origin but appeared European.

Responsible authorities

- 10. Sgt Scott represented Surrey Police in supporting the review brought by Councillor Patterson on behalf of the residents. He stated that many of the concerns which had led the police to bring the previous review in March 2011 on the grounds of crime and disorder and prevention of public nuisance still persisted. This included door staff not managing crowds, large numbers of people congregating outside whilst waiting for admission and problems with the management of, and control within, the premises. Surrey Police believed that the premises was breaching the licensing objectives in relation to the prevention of crime and disorder and the prevention of public nuisance. There had also been reported incidents of underage drinking linked to the premises and therefore there were also concerns that the licensing objective on protection of children from harm was breached.
- 11. Sgt Scott stated that in the view of the police, the premises had not implemented some of the recommendations from the decision notice of the review held in March 2011.
- 12. Surrey Police set out in their written representations a catalogue of incidents related to the operation of the premises. The majority of these occurred late at

night or in the early hours of the morning. The common theme was that those involved were heavily intoxicated and there was evidence of anti-social behaviour. These incidents were affecting the police, ambulance service and residents.

13. He also reported that although there had been an improvement in ID checks to prevent underage persons entering the premises, the police had received regular reports that the venue was visited by such persons. However, there was only one incident where a 16 year old was identified as having been drinking in the Forest and Ocean. The premises had proposed to introduce an ID scanner to combat the underage issue at the previous review but to date no such system had been introduced.
14. Sgt Scott explained his role as Licensing Officer for the Borough which involved visiting licensed premises to meet with the premises licence holder and designated premises supervisor in an effort to engage with the premises. In this way he becomes aware of the incidents happening at premises and the functions they are holding. He confirmed he had made both announced and unannounced visits to the premises and arranged three meetings at the Council offices with Mr Lim and Mr Price. His visits to any particular premises will increase if there are more incidents being reported to the police by residents or where there is police attendance.
15. All incidents at licensed premises are recorded on a database called "Inweb" at the end of every shift. Sgt Scott had first-hand knowledge of some of the incidents recorded against the Forest and Ocean and which continued to occur on Friday and Saturday evenings from 23.00hrs into the early hours of the morning.
16. Sgt Scott took issue with the statement of Mr Steven Price submitted by his solicitor in response to the police representation. He stated that Mr Price's view that some of these incidents were not linked to the Forest & Ocean was at odds with his view of the same incidents which he had witnessed. Furthermore, both the police and residents believed that the incidents occurring on a Friday and Saturday night outside the premises were associated with the premises.
17. Mr Price had stated 'that all licensed premises in the area have incidents; the incidents at Forest and Ocean have not been any more exceptional than that experienced by other premises.' Sgt Scott gave details of incidents recorded on Inweb between 31 March 2011 and 11 January 2012, to illustrate that not only was this premises' record different to other premises in close proximity, who had a similar number of customers, but also that the police and emergency services had been called to the premises on a disproportionate basis:

The George had 18 incidents in the 11 month period, to which police had attended on 11 occasions.

The Town Hall had 5 incidents in the 11 month period to which the police had attended on 2 occasions.

Forest and Ocean had 71 incidents in the 11 month period to which the police had attended on 49 occasions. There had been 135 police units involved on these 49 occasions. (A unit is a police officer or a vehicle with more than one police officer).

18. He explained that all the incidents recorded on Inweb were the result of police attendance at the premises. If there was nothing to an allegation it wouldn't have been entered on the system.
19. Sgt Scott accepted that, judged against how the premises was running last year, there had been some improvement due to the methods introduced by Mr Price, which he welcomed.
20. Sgt Scott showed a CCTV recording of an incident outside the premises on 12 November 2011 at 2am, to illustrate the anti-social behaviour which was occurring as a result of licensable activities at the premises. He was present at this incident and described the sequence of events and the hostile environment outside the premises. Sgt Scott had been present from earlier in the evening dealing with another incident and so had the advantage of witnessing the build up to this incident and being on hand as it escalated. The police had assisted in trying to move people on but he said there was a limit to what you could do with such a number of highly intoxicated people. He commented that the premises owed a duty of care to the police, ambulance service and residents in respect of their customers and that it was not acceptable for them to allow people to get into such a highly intoxicated state then turn them out on to the street and expect other people to deal with the consequences.
21. During the discussion Sgt Scott accepted that it wasn't typical for 13 units to attend an incident at the premises; this happened because one officer was assaulted and activated a panic alarm which brought about a quick response from colleagues to assist. However, he did stress that it was usual to see a large crowd of highly intoxicated youths involved in anti-social behaviour, causing problems that affected the community, on a Friday and Saturday night.
22. Sgt Scott related the advice given, by both Spelthorne Borough Council and the police, to the premises, not to go ahead with an event planned under permission of a TENS (Temporary Event Notice) on 4 November 2011, due to problems at the premises at a similar event the week before. Nevertheless the event went ahead as planned. Sgt Scott believed this showed that the DPS was not co-

operating fully with the police, despite his expressed intention to do so at the previous review hearing.

23. Sgt Scott explained during the discussion that the police had not objected to the request for a TENS on 4 November 2011 because the application may have been submitted some time beforehand. He agreed with Mr Price that it would have been unwise to close the premises earlier than advertised without a controlled close down procedure. He agreed that putting 300 people out onto the street without warning was a recipe for disaster and did not believe that it was a wise course of action.
24. At a meeting between the police, the DPS and the Premises Licence Holder, two suggestions were made by the police to address the licensing objective of prevention of crime and disorder. These were: to detain people found to be in possession of drugs when searched for entry to the premises and thereafter to call police to attend, and, secondly, to approach local taxi firms to arrange for a taxi co-ordinator for Friday and Saturday nights at 2am to assist people to get home quickly and safely without causing a disturbance to neighbours.
25. During the discussion, Sgt Scott confirmed his opinion that people carrying drugs needed to be taken off the streets so that they didn't become a problem to other residents or premises. He accepted that if the premises were to use a separate room or area to detain such individuals until the police arrived to deal with them, that extra door staff may be required. Conversely, he suggested that if the person were not detained they may cause a fight and more door staff may be required to deal with this and the police may still have to attend and in even greater numbers.
26. Sgt Scott stated that the police were unable to follow up information on people found with drugs at the premises due to the lack of detail in the premises incident book. He requested that the wording in the relevant condition be amended to say that a detailed description of the person from whom drugs were seized should be included against the entry in the incident book.
27. At present there is a flashpoint every Friday and Saturday night when 200 intoxicated people leave the Forest & Ocean. Sgt Scott emphasised that this situation could not continue and requests to the premises to explore other ways to diffuse the situation had not been actioned. If the premises was to continue operating it needed to have a system in place to get people out of the vicinity.
28. Sgt Scott asked us to bear in mind that some of the people using Forest & Ocean would be taking drugs as part of their night out, and that when combined with excessive alcohol intake, this would add to the heightened state of euphoria which some customers will exhibit.

29. Mark Hodgson, Environmental Health Officer (EHO) stated that although there had been two complaints of noise made against the premises since March 2011, one had not contained any significant evidence of nuisance being caused and the other related to an external disturbance which was followed up by the Licensing Team. He had not witnessed or been involved in any issue with regard to statutory noise nuisance at the Forest and Ocean club. In any event the premises had an 'inaudibility' condition which was more stringent than the subjective assessment made to ascertain a statutory nuisance.
30. He confirmed that as an EHO he only had jurisdiction for noise nuisance emanating from within the premises and that since October 2011 the focus of nuisance appeared to have shifted to anti-social behaviour caused by patrons outside the premises.

Interested Parties

31. Mr East explained to the Sub-Committee that although he lived in a pleasant area, his enjoyment was marred by ongoing noise emanating from both inside and outside the Forest and Ocean late at night. These disturbances had taken place ever since the premises had opened, with the worst incidents taking place after every other premises in the vicinity had closed. He confirmed that the Town Hall closed at 1am on a Friday and Saturday, having had its request to extend to 2am refused by Planning Committee.
32. The noise came not only from loud music being played at the premises but also from the customers shouting, talking and swearing as they left the premises. He found that sometimes he was disturbed even with windows closed. He explained that following complaints of noise to the Council that an Environmental Health Officer (EHO) had been trying to set up a meeting with Mr Price and arrange for audible testing to take place at the residents' homes. However, this EHO had left the Council and it did not appear that the information had been passed on to her replacement to progress the matter.
33. He had been involved in meetings with Mr Price about the noise from both inside and outside the premises. He said Mr Price had shown the residents the modifications he had made internally in an attempt to address the noise problem. However, because of his apparent scant consideration to the points residents' raised they had chosen not to contact him further but preferred to liaise with the local authority. They felt that in this way they were more likely to receive a sympathetic response and get action.
34. Mr East commented that when residents were in doubt about the source of the noise or disturbance, they went down to the Market Square to check the source.

However, few of them would dare to walk through the Market Square on a Friday and Saturday evening due to the drunken patrons visiting the Forest and Ocean, and consequently they felt like prisoners in their own homes.

35. Mr de Pear advised the Sub-Committee that the residents had been complaining about noise from the premises since October 2010. The situation with the Forest and Ocean had worsened over the past few months and he and his partner were disturbed most weekend nights by the noise from the Market Square.
36. Mr de Pear had obtained a petition with 41 signatures from businesses in the vicinity of the premises who objected to the mess on the streets, including urine and vomit, since the premises had opened. During the discussion he accepted that some of the litter, particularly food wrappings and broken glass, could be attributed to other nearby premises, for instance, late night fast food outlets. He commented that although the premises had been advised to work with the police in October 2010, that Mr Price's statement produced for this hearing showed the premises was defiant and instead of working with the authorities, it was contradicting the police and refuting the evidence of the residents.
37. Mr de Pear detailed his involvement in an incident that had occurred in the early hours of 30 October 2011 when he was awoken by his partner who had heard screaming and the sound of fighting in the Market Square since 4am. He noticed that the lights were on in the Forest and Ocean and went to the premises to find Mr Price. Mr Price followed Mr De Pear to the scene and confirmed that the people involved had been drinking at the Forest and Ocean earlier that evening.
38. Mr de Pear established during the discussion that the Council was not aware of any complaints from residents relating to the activities going on at Aqua.
39. Mrs Smith, who is the steward at the Conservative Club based in Market Square and lived above the premises, stated that every weekend she is kept awake by noise, as a result of both the volume of the music emanating from, and people leaving, the premises. She knew that the people causing the trouble were coming from the Forest and Ocean because she could see them from her premises. She confirmed that the disturbance was not coming from the Town Hall because it was closed at the time. She could also hear the noise in her bedroom which was at the back of the building. In spite of the 'no glass' policy at the premises, there was frequently glass littering the Market Square. People visiting her premises didn't like to leave there after 11pm because of the drunks.
40. Dr O. Goldring referred to the list of incidents detailed in the police representation and highlighted the fact that of the 65 mentioned, 41 had occurred between the hours of midnight and 2am. He stated that the residents had a right

to peace and quiet and there would be 67% less incidents to disturb them if the premises closed at midnight.

Premises Licence Holder

41. Mr Price gave evidence to outline the policies which he had brought into effect since March 2011 and how they had helped to alleviate problems at the Forest & Ocean. He also sought to explain the issues raised by police and residents and how the Premises was taking its responsibilities seriously to avoid crime and disorder and to prevent public nuisance.
42. Mr Price stated that there were effective security procedures operated by the door staff to allow access to the premises. These involved removing any person who was drunk or troublesome, checking ID and doing a pat down search for drugs. Any drugs found were put in a box for the police to collect. Customers admitted after 9pm on Fridays and Saturdays are identity stamped on the wrist. Anyone who leaves and wants to re-enter before 1am has to rejoin the queue and undergo the same ID checks and searches.
43. Forest & Ocean uses polycarbonate glasses after 10pm on Thursdays, Fridays and Saturdays. Door staff check that no glasses or bottles are taken into the smoking area or leave the premises.
44. Mr Price talked about the price of drinks at the premises and stated they were not the cheapest establishment in Staines with a pint of lager being sold at £3 compared to £1.29 at The George.
45. Toilet checks are carried out by door staff. An attendant was present after 9pm until closing to report any suspicious activity and to remove drinks from those entering the toilets.
46. Mr Price explained the policy on removal of customers. The door staff patrol the premises during the evening to look out for anyone behaving badly, i.e. drunk, shouting, taking drugs and they will then remove them.
47. There is also a close down procedure for the premises. Re-entry is not permitted after 1am. The door is closed at 1.30am to prevent further entry. Lights go up at 1.50am and the DJ plays a more subdued style of music to try and calm the customers down. The DJ will always make an announcement that everyone should now leave quietly and quickly. Mr Price and his staff then patrol the premises to remove drinks, encourage people not to loiter and to generally usher people out in a controlled way so that there is a steady stream of people leaving rather than one huge rush.

48. The dispersal procedures. The door staff on the exit watch for anyone trying to leave with bottles. Bottles and glasses will be removed before people leave the premises. Door staff direct those leaving Forest & Ocean into the Market Square, back to the taxis and bus stop away from residential areas. Mr Price will be out in market square with door staff to tell people to keep their voices down.
49. CCTV coverage. Mr Price explained that there are 29 cameras in all. They cover the entrance, the smoking area and inside the premises. Mr Price confirmed that although the system was old it was effective and parts of it had been upgraded, he was able to burn discs from it and show them to the police. He was normally available on the premises to download CCTV but other members of staff also knew how to do this.
50. Membership of PubWatch. Mr Price attends monthly and has only missed one meeting due to holidays since March 2011 when he was appointed DPS. Mr Price expressed some concerns about the slowness of the procedures with PubWatch and how long it took to ban people. He did however indicate that he was committed to working with other premises in the area to exclude people who were undesirable from all the town centre pubs in Staines.
51. Mr Price stated that he did have a genuine desire to work with the police and residents. Mr Price said if he was given intelligence that the police had gathered on underage drinking then he could do something about it, but he noted that he did not get a lot of feedback from the police about individual cases which would allow him to take any follow up actions. Mr Price did acknowledge some of the procedures which are followed with regards PubWatch and banning of individuals, as mentioned above.
52. As it was raised in the Licensing officer's report, Mr Price addressed the internal alterations made to the premises without permission. These had been made without submission of a minor variation application because Mr Price had spoken to Building Control and believed that as he was removing structures rather than putting them in that it would not be a problem. He spoke to the Fire Service who were satisfied with the changes.
53. Mr Price also talked about his meetings with residents about noise issues. Mr Price had two meetings as a result of which he believed the residents preferred the doors open, allowing a constant low level sound rather than the intermittent bursts of sound when doors kept opening and shutting. (The Sub-Committee noted that the residents disagreed with this statement). Mr Price had removed the speakers by the front door and this had significantly reduced the noise escaping this way. He agreed that residents shouldn't have to suffer from the noise of music coming from the pub. He expressed the desire to talk to the residents but because he hadn't heard more from them he assumed they weren't

unhappy about the premises operation. He had also spoken to Natalie Kane, an Environmental Health Officer (EHO) and she had arranged to attend the premises to hear the sound levels but the meeting had been cancelled. She had since left the Council and the matter had not been progressed. However, he said the invitation was open if the Council wanted to come back and monitor the sound levels.

54. Mr Price talked about the incident related in the representations that took place on 30 October 2011. Mr Price was in the premises as staff were cleaning up inside. When he became aware of emergency lights in the Market Square he went to see what was going on and was met by Mr De Pear at the door of the premises. A person who had previously been employed at the premises informed him that a lady had had a panic attack. He would have assisted beforehand had he been aware of the commotion.
55. As regards the TENS event on 4 November 2011, Mr Price had received a phone call from Sgt Rob Smith advising him not to go ahead with the event. He explained he had advertised and risk assessed the event and agreed not to open as late but would go ahead with it. On the night he was asked to close the premises immediately by a police officer who attended but as there were 286 well behaved people inside he felt it unwise to do so. He wanted to co-operate and asked to speak to a Sergeant or Inspector and have 5 minutes to explain the situation to his customers. The officer went to get advice and on his return told Mr Price he could carry on. Mr Price agreed to close at 2.30am, which was earlier than the advertised time of 4am and the officer thanked him for co-operating with the police. Egress from the premises at 2.30 went smoothly. He operated his usual closing down procedures in spite of having a TENS permission. Mr Price was of the opinion that the officer did not understand the implications of emptying the premises without warning.
56. The disturbance shown in CCTV evidence of 12 November 2011. Mr Price disagreed with Sgt Scott's suggestion that most of the customers were highly intoxicated. He pointed out some elements from the video footage which supported his earlier evidence about the procedures in use at Forest & Ocean, for example, the door staff employed to check people leaving the premises did not take drinks out into market square, the gradual way in which customers were dispersed from the premises, the way in which door staff were actively involved in helping to stop the disturbance and came to the aid of the police, the way in which door staff were in Market Square asking customers to move on, the way in which door staff directed people away from Market Square. Mr Price also came into Market Square when he was aware that there was an incident, previously he had been inside the club helping to move people out, as per his policy discussed earlier.

57. Mr Price also talked about the incident referred to in late evidence of 24 December 2011. Mr Price explained the events as he was aware of them. The police had closed the smoking area due to travellers trying to climb over the gate to get in. Once it was opened there were no further incidents.
58. Broken glass in the Market Square. Mr Price explained that the smoking area was at the side of the premises and anyone holding glasses or bottles in their hands was turned away. The Town Hall's smoking area was at the front on Market Square and broken glass had been found at the side of that premises. The door staff also removed bottles from customers as they left the premises and disposed of them other than in public bins.
59. The police had previously suggested an ID scanner to be used at the premises. Mr Price explained that he had looked into the use of such a system but no company wanted them to trial a system whilst Forest & Ocean was involved in a licensing appeal and now the review. He noted that no other premises in Staines used an ID scanner. He was not against the idea and he had tried to implement it, but it had been frustrated by the present circumstances.
60. During the discussion, Mr Price expressed the opinion that the police should be assisting with troublemakers outside the premises. He said that people who were refused entry by the door staff would often stay at the barriers intimidating people in the queue, shouting and swearing, kicking doors and railings. Some police officers would assist by getting these people out of the area but not all of them. He would like to work more with the police and see them coming into the premises to check IDs and show a presence so that all customers knew that trouble would not be tolerated.
61. Mr Price added that there were problems at other premises in Staines and that the police should meet with all of the premises licence holders to find ways to deal with the problems. He would like to see action by the police to detain the troublemakers as he could not be held responsible for individuals' behaviour.
62. Mr Price explained why the premises had not yet implemented the suggestions from police to deal with drug users or to arrange a system for customers to call taxis.
63. As regards the detention of drug users, the door supervisors undertook comprehensive searches at the entrance to seize drugs from customers. Any found were placed in the drugs box, noted in the incident book and the police notified straightaway. The police request to hold individuals from whom drugs were seized would mean using a separate room, which the premises didn't currently have, in which to detain them with door staff to man the room. This would take them away from searching the queue or patrolling inside. The

premises was fulfilling its obligations by removing the drugs and thereby preventing their use within the premises.

64. The Council had informed him that it was against taxi licensing regulations to have a dedicated person co-ordinating taxi hire but had suggested he install a free-phone to one taxi company. He had contacted the local taxi firms, most of whom were not interested but one company agreed to look at the possibility of a free-phone in the premises. Mr Price stated that he had done as much as was possible to take this police suggestion forward.
65. Mr Price confirmed that he had applied for 10 TENS in 2011 and all had been approved. He had no such events currently planned for 2012 and would postpone organising these until he had discussions with the responsible authorities.
66. Forest & Ocean was not the latest opening premises in Staines, as the Aqua club had a licence to operate until 5am. Mr Price submitted that patrons from this club would also use the towpath late at night and so local residents were unlikely to experience disruption only from Forest & Ocean customers.
67. Mr Wright, on behalf of Forest & Ocean, explored the 71 incidents recorded against Forest & Ocean which included: seven incidents relating to people claiming they had been refused entry; two entries concerning the unauthorised minor variations and ten entries due to people being ejected from the premises. He submitted that there were maybe just seven or eight incidents which were crimes of violence. He submitted that the number of offences attributed to Forest & Ocean accounted for a very small percentage of all offences in Spelthorne.
68. Mr Price explained that all his staff underwent strict training to look out for the signs of drunkenness amongst customers. He made it clear to staff that it was their responsibility not to serve people who were intoxicated. He stated that he had not seen anyone served in Forest & Ocean who was already drunk.
69. Mr Price was keen to meet with residents and felt that scheduled meetings to which all local residents were invited were needed. He needed to know what the problems were so he could stop them. He stated that the premises was 'a victim of its own success.'
70. In response to questions about litter around the premises, Mr Price confirmed that the immediate area outside the premises was swept every night. He also said that if he was aware that his customers had caused any other littering that he would arrange to have it cleaned up but he questioned how far away from the premises he should clean when he had no evidence it was caused by his customers.

71. Mr Price explained the procedure with regards to bookings for the Karaoke rooms. These customers are searched and go through the same checks as all other customers. If they turn up drunk or do not have the relevant ID they are sent away. In the same way, diners attending the club to eat in the restaurant have to go through the same security provisions if they wish to move from the restaurant to the bar. In this way no customers for the restaurant or karaoke can by-pass the established security policies.

FINDINGS

72. The Sub-Committee has considered the representations made by the applicant for the review, Surrey Police, Environmental Health, the interested parties and the respondent. It has given more weight to those representations where the evidence has been tested and challenged at this hearing and less to the petition and other representations where no direct evidence has been provided.
73. The Sub-Committee finds that under the new regime since the review in March 2011, the premises has put in place measures to address risks to the licensing objective on crime and disorder which include: attendance at Pub Watch; use of registered door supervisors; search procedures for drugs; staff training; use of Town Centre Radio and an extensive CCTV system which is in the process of being upgraded.
74. The Sub-Committee finds that Mr Price has brought about significant improvements to the operation of the premises since March 2011 but it is aware of the longstanding problems at the premises and notes the very serious state of affairs at the last review in March 2011. This context is relevant because it provides a backdrop against which these improvements can be measured.
75. The Sub-Committee is persuaded that the premises has taken on board all the conditions which were added to the licence following the review in 2011. It accepts that the premises has not been able to progress the trial of an ID scanner due to reluctance of businesses to make the system available to Forest & Ocean during the appeal following last year's review and shortly after that was concluded, the submission of this application for review.
76. The Sub-Committee is persuaded by the evidence of Mr Price that the police request for the premises to use a secure room to detain customers found with drugs has practical difficulties and may take door staff away from their duties. It is satisfied that the drug box is used regularly. It does however accept the police suggestion that condition 10 v) in Annex 6 to the licence should be amended to require a description and name of the individual from whom drugs have been seized. Adherence to such a revised condition would enable the police to pursue further enquiries related to such incidents.

77. The Sub-Committee finds that Mr Price has taken on board the police suggestion to improve customer dispersal by taxi, by looking into the possibility of having a free-phone to one firm installed at the premises.
78. The Sub-Committee finds that the premises has taken active steps to prevent underage customers, those with drugs or who are intoxicated from entering the premises. These steps are used whilst customers are waiting to enter and upon entry and furthermore, patrols inside the premises look for troublemakers or people who have had too much to drink and these people are then asked to leave.
79. However, the Sub-Committee is persuaded by the evidence of the police, interested parties and the applicant for review, and concludes that in spite of these measures people are regularly leaving these premises in an intoxicated and rowdy state. It further concludes that the large numbers of intoxicated people regularly leaving these premises on Friday and Saturday evenings has an impact on the whole town centre, but particularly on those people living in Colnbridge Close and Market Square and which are in the immediate vicinity of the Forest & Ocean club.
80. Although the police gave evidence of underage people being identified as having been drinking at the premises, on balance the Sub-Committee was not persuaded that there was sufficient evidence to conclude that underage drinking was a problem for these premises. One young person had made an allegation and this was not followed up by the police and raised with the DPS. It is difficult to see how any conclusion can be drawn from this. The hearsay evidence about young people (under eighteen years of age) drinking in Forest & Ocean has to be discounted. It is likely that Mr Price's checks for underage drinkers are putting people off and if there was an issue with underage drinking then more firsthand direct evidence would have been available especially in light of the large numbers of calls to the police for assistance that have been witnessed in recent months.
81. The Sub-Committee is persuaded that the premises is dealing adequately with litter in the immediate vicinity, and cannot be held responsible for broken glass in the Market Square in view of their use of polycarbonate glassware after 10pm on Fridays and Saturdays. Equally, the Sub-Committee finds there is no evidence that other detritus as detailed in the petition submitted by the interested parties, is left solely by patrons of the Forest & Ocean, in view of the large number of other licensed premises in the Town centre and the late night fast food venues.
82. The Sub-Committee finds that the CCTV evidence of an incident immediately outside the premises on 12 November 2011 shows customers of the Forest &

Ocean involved in a fight in the early hours of the morning and the door staff intervening quickly. It finds that this resulted in a large police presence but that this type of response is not a typical scenario. On balance however the Sub-Committee is persuaded by evidence of residents that other similar incidents happen on a regular basis and that as a result they are caused considerable disruption including; loss of sleep; noise pollution (in its ordinary sense), anxiety and stress leading to a lower quality of life than can be expected.

83. The Sub-Committee is persuaded by the representations of Surrey Police that there has been a disproportionate number of incidents recorded against these premises, in contrast to other licensed premises nearby. This is notwithstanding the fact that the premises have introduced out measures to avoid trouble of this nature. The Sub-Committee finds that the number of incidents occurring at these premises, for whatever reasons, results in the police being routinely called to attend. This ultimately has an impact on police time and resources. On balance it concludes that there are significantly more problems at this premises requiring police attendance than any other in the town.
84. The Sub-Committee finds that due to a lack of continuity in allocating workloads in the Council's Environmental Health section, it has not been possible to establish that a statutory noise nuisance is occurring at the premises. The Sub-Committee acknowledges that Mr Price has expressed his willingness to deal with such a problem should it be found to exist. However, the Sub-Committee also finds that residents have previously brought the matter of noise from loud music to the attention of the premises. On balance, the Sub-Committee concludes that nearby residents and businesses are continuing to suffer from the noise of loud music emanating from the premises.
85. The Sub-Committee finds that the incident that took place on 29 October involving one young woman screaming in the early hours of the morning, was an isolated incident that occurred long after the premises had closed. Although it accepts residents were disturbed by this incident, the Sub-Committee finds that the premises cannot be held responsible for this individual's actions and it would be wrong to make long lasting decisions on the basis of this one incident.
86. In connection with the incident on 5 November 2011, when the premises went ahead with a TENS event against police advice, the Sub-Committee finds that Surrey Police and Mr Price were in agreement that closing the premises early without warning, with the large number of people on the premises, would have been detrimental to crime and disorder in the area. The Sub-Committee is persuaded that the premises dealt with the situation correctly on the night by finding a compromise and closing at an earlier time than permitted under the TENS. However, the Sub-Committee also notes that Mr Price chose to go ahead with the event, having made his own assessment of the risks, contrary to the

advice from the authorities prior to the event. It also notes that the same authorities issued the TENS licence in the first place and should have been more aware of the potential for trouble. It seems to the Sub-Committee that this whole incident was a case of trying to “lock the stable door after the horse has bolted”. The Sub-Committee hopes that all have learned from this incident and its own view is that TENS applications from premises with a record of problems on crime and disorder should not be allowed to proceed.

87. The Sub-Committee finds that Mr Price has taken steps to minimise problems at the premises since the last review and that he has expressed a wish to work with the police in order to address these further. However, his expectations for the police to be more involved in the security and proper control of his premises are unrealistic. Forest & Ocean must, as far as is possible, minimise the disruption it causes to its neighbours and to the police. Expecting police to patrol in the pub and remove people who argue about refused admission is not a good use of police resources. No criticisms should be made of the police for not acceding to these requests.
88. The Sub-Committee expects Designated Premises Supervisors and Premises Licence Holders to take seriously the need to ensure that local residents are not inconvenienced by the operation of the premises. In this case the Premises Licence Holder has made a good effort to hire Mr Price and allow him to adopt his policies which we have already noted to be positive in some regards. However, disruption to local residents persists. Mr Price questions how far his door staff can go to direct people away from residents and keep them quiet as they leave. We expect that question to have been resolved so that Forest & Ocean staff are actively engaged in keeping noise and disorder away from the residents of Colnbridge Close.
89. The Sub-Committee finds that this element of the dispersal and wind-down policy is not working effectively because the desired outcome is not being achieved, namely, that local residents are not disturbed. In conclusion, the Sub-Committee is persuaded that Mr Price and Mr Lim are not taking seriously their responsibilities for dealing with the problems occurring as a result of the activities at the premises and are expecting the police to routinely deal with large numbers of intoxicated people leaving the premises at weekends.
90. Mr Price has put some good policies into place but he has not solved the problem and has not been sufficiently focussed on the outcome required. The Premises Licence Holder appears to delegate all control for the management of the premises to Mr Price. Whilst this is good in one sense, because Mr Price has authority to act and the backing of his Premises Licence Holder, it does not mean that the Sub-Committee does not also hold the Premises Licence Holder responsible for this failing to prevent disruption to residents. We have said

before in many decisions that the roles of the DPS and Premises Licence Holder are different. The DPS is in day to day control over the sale of alcohol and will be involved in the good running of the premises. The Premises Licence Holder is responsible for the staff, overall systems and management of the premises, and the Sub-Committee does not accept the Premises Licence Holder to delegate all management to a DPS and not to take responsibility themselves. Therefore although we have heard mainly from Mr Price about his actions towards residents and preventing nuisance, the lack of evidence from Mr Lim suggests to the Sub-Committee that Mr Price is acting on his own without any appropriate supervision and that Mr Lim is expecting Mr Price to resolve all problems, many of which are his responsibility given that he has to have the overall control for staff, systems and management of the premises.

91. The Sub-Committee finds that meetings with residents to address issues of noise and disturbance have been few and far between and that both Mr Price and the residents have been responsible for this not progressing. The Sub-Committee accepts that Mr Price has made his phone number available to residents but also that residents' experience of their concerns not being taken seriously has led to this lack of communication.
92. The Sub-Committee has concerns about reports that the actions of the Premises Licence Holder appear to be over-riding the decisions of the door staff. The Sub-Committee accepts the explanation of Mr Price in describing these incidents and on balance concludes there is insufficient evidence to suggest the Premises Licence Holder is undermining his staff.
93. The Sub-Committee is persuaded by the evidence of interested parties that their health and well being has been, and continues to be, compromised as a result of continual disturbance in Market Square on Friday and Saturday evenings, from customers who have been drinking at the Forest & Ocean premises.
94. The Sub-Committee finds that although the premises has in place a stepped procedure to achieve a calm and orderly dispersal at closing time, the experience of residents suggests this is not having the desired effect, particularly on a Friday and Saturday night.
95. The Sub-Committee accepts that a premises which is popular is more likely to attract customers who behave in a manner that impacts detrimentally on the local community. It finds that in spite of the premises adherence to its many conditions, the fact is that it not only has to turn away undesirable people but also large numbers of people frequently leave the premises in an intoxicated state, both causing disturbance in a residential area.

96. The Sub-Committee finds that the evidence before it is contradictory: customers are clearly coming out of the premises in an intoxicated state. The Sub-Committee accepts Sgt Scott's evidence on this point, he has experience as a police officer dealing with licensing matters and we accept his evidence if he says people are highly intoxicated. The Sub-Committee also accepts that there are measures in place to prevent drunk people from entering, that staff are trained to deal with people who have been drinking too much. Mr Price states customers are not getting drunk inside the premises. It is difficult for the Sub-Committee to accept this. If they go in sober enough and come out intoxicated then the reasonable conclusion to draw is that they are drinking to excess in the premises. Mr Price and Mr Lim are accountable for this.
97. The Sub-Committee finds that the large numbers of young people leaving the Forest & Ocean at closing time every weekend is creating a disturbance that undermines the licensing objectives on the prevention of public nuisance. The sensible policies which have been put in place to avoid this may have helped to prevent far worse situations but they have not been able to eradicate this problem. It is now becoming a chronic problem which must be addressed in order to protect the health and well being of the residents near-by.

CAUSES OF CONCERN

98. The Sub-Committee is advised by National Guidance paragraph 11.18, to identify the causes of concern established by the representations. Remedial action can then be directed to those causes. In this case the causes of concern may be summarised as follows:
- (a) The regular anti-social behaviour and noise nuisance caused by intoxicated patrons leaving the premises on Friday and Saturday evenings.
 - (b) The fact that police attendance at incidents occurring at this premises, is much greater than any other premises in the locality in order to deal with public nuisance and crime and disorder.
 - (c) That large number of young people will drink to excess so that they are more likely to cause public nuisance when they leave the premises.
 - (d) The inability of the premises to manage the behaviour of crowds of customers as they leave the premises, leading to disorderly behaviour and public nuisance.
 - (e) An inability of the premises to accept their responsibility in ensuring their customers do not cause a nuisance as they leave the premises in the early hours of the morning.
 - (f) The affect of noise emanating from the premises, on nearby residents and businesses.

- (g) A lack of sympathy for the residents in dealing with the problems they have raised over the past year, resulting in a continuing detrimental impact on their daily lives.

LEGAL POSITION

99. By virtue of the Licensing Act 2003 the Sub-Committee is entitled to consider on a review application whether it should:

- ⇒ Modify the conditions
- ⇒ Exclude a licensable activity
- ⇒ Remove the Designated Premises Supervisor
- ⇒ Suspend the licence for up to 3 months
- ⇒ Revoke the licence

Written Warnings

100. The Sub-Committee considered the advice set out in the national guidance at paragraph 11.16 that a Sub-Committee could consider written warnings to a Premises Licence Holder.

“It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warning should be issued in writing to the holder of the licence. However, where responsible authorities ... have already issued warnings requiring improvement - whether orally or in writing - that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.”

101. The Sub-Committee noted that the premises had been given written warnings by the Council’s Licensing Manager and oral warnings by the Police. In addition, the police had met with the Premises Licence Holder and DPS at their offices and visited them at the premises on a number of occasions. The Sub-Committee did not consider a written warning was appropriate in view of the premises response to previous warnings.

OPTIONS

102. The Sub-Committee has considered which of the remedies available to it would be the most necessary, proportionate and reasonable to meet the four licensing objectives and address the concerns outlined above.

103. The Sub-Committee is mindful that providing consumers with greater choice and flexibility must always be balanced carefully against the rights of local residents to reasonable quiet enjoyment of their homes.

Modification of conditions

104. The Sub-Committee considered whether a reduction in hours would address the problems of people causing a disturbance as they left the premises. Although this would stop the nuisance being caused in the early hours of the morning, the Sub-Committee was not persuaded that it would remove the problem entirely but simply bring it to an earlier time of the evening. The Sub-Committee accepts the residents' evidence that it is reasonable not to be disturbed after midnight. In order to achieve this objective at the Forest & Ocean would mean closure of the premises by 11.30pm and a last sale of alcohol at 11pm. Even then the Sub-Committee is not convinced that the problem would be solved since those leaving the premises at that time would likely to be loud rowdy and would be looking for somewhere else to go rather than going home straightaway. We say this because of the nature of the premises as a club. The Sub-Committee considers that the nature of the operation is more relevant than the licensing hours. This is discussed later.
105. The Sub-Committee therefore concluded that a reduction in hours was likely to result in customers moving on to other premises within Market Square or elsewhere in Staines, and to be just as rowdy in doing so. Residents would be disturbed but just slightly earlier.
106. The Sub-Committee considered whether the problems at this premises could be remedied by the imposition of further conditions. It concludes that there are already sufficient and robust conditions in place which the premises is abiding by. There are no further conditions which it felt could ameliorate the situation.
107. The Sub-Committee felt it was necessary to clarify the existing condition 10 v) at Annex 6 on the licence with a more comprehensive condition as requested by Surrey Police and agreed by Counsel at the hearing. The condition to read as follows:

10. "An incident log must be kept at the premises, and made immediately available on request to an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or the Police, which must record the following:

v) seizure of drugs or offensive weapons. To include the name and description of the individual from whom the seizure was made.

Exclusion of Licensable activity

108. The Sub-Committee then went on to consider the removal of a licensable activity. The Sub-Committee attributes the problems at these premises to the type of entertainment it offers. The music and dancing appeals to large numbers of young people who, having enjoyed a party atmosphere all evening, then

disperse onto the streets still in an intoxicated, lively and noisy state. The policies introduced by Forest & Ocean are typical for a club even though this is in effect a town centre pub which has changed its character over the years. Customers queue outside for admission and the admission must be paid for. "Bouncers" patrol to ensure there is no disruption. There is a DJ who plays loud music and there is a dance floor for customers to dance. There are late hours which are typical of a night club and all that we have seen suggests that Forest & Ocean is the type of venue that customers move into for the last part of the night. In effect it is a nightclub and it is struggling to contain the consequences of its operations because it is so close to a residential area.

109. The Sub-Committee is mindful that the premises has brought a new dimension to the night time economy of the town through this type of venture but it is also very much aware that this has been to the detriment of the health and well-being of local residents and resulted in a disproportionate demand on police resources. In balancing the needs of both this business and the residents it considers it is both necessary and proportionate to remove the licensable activities of regulated entertainment for live and recorded music, performance of dance, on Friday and Saturday nights. It also necessary to remove the provision of entertainment facilities on Friday and Saturday nights. This decision will mean that patrons to the Forest & Ocean can drink and can go on elsewhere but that it will not encourage loud and rowdy behaviour when the time comes to leave the premises. People will not be in a heightened and excited state and those who are out for a longer night out will have to move on at an earlier time in order to gain entrance to a nightclub. We believe that the removal of these licensable activities will achieve a significant reduction in noise and nuisance for local residents.
110. The Sub-Committee does not wish to take actions which would close down the other aspects of the business which seem to cause no problems such as daytime drinking, the restaurant and normal evening bar trade. However there is much evidence to suggest that this is the wrong location for a night club and the Sub-Committee cannot ignore that. Given the substantial evidence and the numerous warnings provided to the premises, the time has come to alter the nature of its operation as regards music and dancing and thereby mitigate its affect on the local community.
111. The Sub-Committee is not removing music and dancing from other nights of the week as it has not heard that they cause particular problems. The premises will be alert to the possibility that should problems emerge on other nights of the week then the licensing authority may well have to take action to deal with them.

Removal of DPS

112. The Sub-Committee was pleased to see the improvements in the operation of the premises made by Mr Price, since he took over as DPS in March 2011. They welcomed his willingness to work more closely with the police to resolve the issues at the premises and to set up regular meetings to meet with all nearby residents and ensure they did not suffer from anti-social behaviour as a result of the licensable activities taking place at the premises.
113. The Sub-Committee hoped that Mr Price would take more responsibility to ensure his customers did not have a detrimental effect on the local residents and businesses. The Sub-Committee encourages local residents to engage with Mr Price's attempts to solve problems. A "Mexican stand-off" is in nobody's interests. If there are problems they need to be resolved quickly by the people in charge of the premises. Residents can involve the Council and their local councillors by all means but this should not be to the exclusion of the Premises Licence Holder and the DPS.

Temporary Suspension of License

114. The Sub-Committee deliberated whether a suspension of the Premises Licence was necessary or proportionate. The Sub-Committee has serious concerns that residents quality of life has been eroded to such a degree by this premises that they felt it necessary to call it in for review. The premises had continued to be a focal point of disturbance in the town centre for some months, and yet the management of the premises did not accept responsibility for this. The Sub-Committee considered that a temporary suspension would enable the respondent to consider what measures he needs to take inside the premises to deal with the problems caused by intoxicated customers leaving the premises. However, we feel that the measures we have announced today in relation to the regulated entertainment and facilities for entertainment will address the problems suffered by the residents and are a necessary and proportionate response.

Revocation of License

115. On the evidence presented, the Sub-Committee considered whether revocation of the premises licence was necessary and concluded that it was not, as the problems at the premises were confined mostly to Friday and Saturday nights. It would be a disproportionate response to revoke the licence in its entirety to deal with the problems presented. However the Sub-Committee notes the long standing nature of some of these issues and whilst it cannot bind any future Sub-Committee or fetter the discretion of a decision making tribunal it would expect that the longer these problems persist the more likely it is that such an extreme measure would have to be considered.

DECISION

116. The Sub-Committee has reached a decision about this matter and in doing so has taken into account the National Guidance on Reviews, paragraph 11.18, which encourages Sub-Committees to identify the problems at licensed premises and then to take a proportionate view to the remedies which are available and might be necessary to promote the licensing objectives.

117. The Sub-Committee has decided to:

- Amend condition 10 v) at Annex 6 on the licence to read as follows:

An incident log must be kept at the premises, and made immediately available on request to an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or the Police, which must record the following:

v) seizure of drugs or offensive weapons. To include the name and description of the individual from whom the seizure was made.

- Restrict two licensable activities: (a) remove the provision of regulated entertainment as regards:
 - Live music
 - Recorded music
 - Performance of Dance

and (b) remove the provision of entertainment facilities (this means the karaoke, the dance-floor, the DJ booth etc)

on Fridays and Saturdays and any other day which is not followed by a normal working day.

118. The Sub-Committee feels that given its serious concerns particularly as regards the prevention of public nuisance caused by customers of these premises it must stress the importance of co-operating with the police and responsible authorities to ensure that public nuisance and crime and disorder are reduced in the vicinity of the establishment.

Cllr. R.W. Sider (Chairman)

Cllr. A. Ayub

Cllr. D. Gohil

Date of Decision: 3 February 2012

Date of Issue: 6 February 2012

RIGHT TO APPEAL

You have a right to appeal against this decision, which must be made to the Justices Chief Executive at the Magistrates' Court for the area in which the licensing authority is situated and within 21 days of receipt of this decision notice.