

BOROUGH OF REIGATE AND BANSTEAD
LICENSING AND REGULATORY SUB-COMMITTEE

Minutes of a meeting of the Licensing and Regulatory Sub-Committee held at the New Council Chamber - Town Hall, Reigate on 19 March 2024 at 10.30 am.

Present: Councillors J. Hudson, A. Proudfoot and S. Sinden (Chair).

27. APOLOGIES FOR ABSENCE

An apology for absence had been received from Councillor Torra, Councillor Proudfoot attended as her substitute.

28. DECLARATIONS OF INTEREST

There were no declarations of interest.

29. MINUTES

The minutes from the meetings held on 21 December 2023 were **APPROVED**.

30. LICENSING HEARING PROCEDURE

The hearing procedure was noted.

**31. APPLICATION TO REVIEW THE EXISTING PREMISES LICENCE FOR:
CLOONY'S, 85 BELL STREET, REIGATE**

The Chair, the other members of the Sub-Committee and officers present introduced themselves.

Mr Suraj Chopra, the Licensee was present with his associate Mr Ruben Burton.

The applicants Justin Haves and Maria Rudd from Environmental Protection were present, as were Ian Sandwell from Surrey Police.

Sam MacDonald, an objector, was present, representing Jo Cushing.

Representations

The Licensing Officer provided an introduction to the review of licence for Cloony's, 85 Bell Street, Reigate, RH2 7AN, stating this was a review hearing for premises licence 23/02734/LICDPS which was granted on 18 August 2023 for 85 Bell Street, Reigate Surrey RH2 7AN, which began operating as 'Cloony's' from October 2023 when the licence holder was granted a personal licence.

Since October 2023 three complaints of a statutory nuisance for noise were received by The Environmental Protection (EP) team. These were investigated and found to be substantiated. As a result, an Abatement Notice was served on Mr Chopra, the licence holder, on 11 January 2024.

On Wednesday 18 January a meeting was arranged by Licensing for all interested parties at Cloony's to discuss ways forward to stop the reported problems. As a

result of this meeting a list of immediate actions were agreed with management. It was agreed that should these measures prove effective then they would be put forward as conditions to be added to the licence. Advice was given by EP regarding reducing noise emission from the premises.

However, as a result of routine checks EP established that the abatement notice had been breached and called for a review of the premises licence on the 1 February 2024.

During the 28-day period three representations were received by the licencing department. One from a Responsible authority Surrey Police. Licensing Officer Ian Sandwell from Surrey Police was here to speak on their representation.

Two from interested parties also made representations. One of those has asked a friend (Sam MacDonald) to attend on their behalf.

EP and the licence holders have continued to work on the initial actions list as a means of resolving the causes of the noise problems. As a result, they have agreed a list of conditions with the licence holder that have been passed to the Sub-Committee for their consideration when decision making.

The Environmental Health's Environmental Protection Team Leader explained that he held a diploma in acoustics and noise control. Members would have seen from the accompanying hearing papers, on behalf of Environmental Health as a responsible authority, they called for a review of the premises licence for Cloony's. The officer took the papers submitted as read by the Sub-Committee

However, he gave a short account for everyone's benefit.

This review was due to on-going noise nuisance and antisocial behaviour complaints from neighbours in the locality of Cloony's. Environmental Health first started investigating noise nuisance complaints in October 2023. During their investigations they received an abundance of evidence to support noise issues that were occurring from Cloony's. It was on 11th January, after review of data, officer in person observations in residents properties late in the evening that Environmental Health concluded that a statutory Noise Nuisance was occurring and then they were duty bound to serve a noise abatement notice.

Environmental Health have had engagement from Cloony's and interactions with their management and complainants too on the matters at hand. Unfortunately, reassurances and advice offered by the management were not acted on sufficiently to avoid the serving of the notice. Following the serving of the notice, Environmental Health received evidence, and again witnessed in person a continued noise nuisance occurring that was deemed to be a contravention of the noise abatement notice.

There was no option after several attempts to assist in resolving the noise issues and they were still not being sufficiently acted, to call for a review of their licence. In late January Mr Ruben Burton reached out to the Council to seek to get control of the situation, seek compliance, and try to address concerns from both the neighbours in the locality and that of Environmental Health and Licensing Officers also.

Since that engagement a reduction in noise levels overall has been apparent and since Mr Burton has become involved in assisting Mr Chopra in running and operating Cloony's bar. Environmental Health and Cloony's management have been able to reach an informal agreement by way of proposed conditions that the premise would be willing to be added to their licence. Environmental Health also requested the Music Deregulation Act 2012 be disapplied to the relevant conditions on the licence with regard to noise so as to allow these proposed conditions, and others relating to noise, to take immediate effect

The Licensee, Mr Chopra spoke, stating that he apologised for the issues this had caused to his neighbours and that he has tried to work with officers to resolve matters. Attempts to limit noise have been made and he wanted to do everything so as not to disturb his neighbours. He stated that he had no previous experience of running a bar and Mr Burton has come in to assist in running the bar.

Mr Burton stated that following the abatement notice Mr Chopra requested his assistance as he had experience in managing bars. Mr Burton had been in contact with Environmental Health since February 2024. Noise mitigation had been installed and the garden had been closed since 1 February 2024. There have also been no live DJs and he believed that there had been no more complaints since 1 February 2024. The business was changing direction and was to be more of a daytime venue.

Mr Ian Sandwell, Licensing Officer, Surrey Police, stated that there were two licensing issues of note since the premises had opened. Firstly, On 21 December 2023 at 22:16hrs the Police took a call from Mr Chopra stating there was a violent man being held in the bar. When the police arrived, he was being restrained by 2 Door Supervisors and he was arrested. This generated 8 crime reports as both staff and the police had been assaulted and this was an ongoing investigation.

The man arrested was highly intoxicated, despite this he had been served alcohol by the bar and this was an offence under the Licensing Act.

The incident was captured on body worn cameras as well as CCTV. Mr Chopra had the CCTV footage of the incident on his mobile phone. He was given a link to send the footage. There was a delay in the request however he was contacted on 18, 19, 24 and 29 January to provide the footage and this was not done. The footage should be retained by the bar for 31 days and made available within 24 hours of request and to not do this was a breach of a condition of the licence. The fact that the CCTV footage was not shared with the police undermined the investigation and the crime and disorder objective. As a result the police had to rely on body worn cameras to assist their investigation.

Secondly, the premise opened in late 2023 with conditions proposed by the licence holder, one of which was to have an ID scanner. This was an expensive piece of kit, but it was one of the conditions of the licence. The scanner scans someone's face and compared it to their ID. It also keeps a record of who has entered the premise. Mr Sandwell was pleased this condition had been volunteered and consequently sat under Annex 2 of the licence as there had been issues at the bar under its previous owners. A visit by the Police took place at the bar on 2 December

2023 and found that there was no ID scanner. This was fundamental to the licensing objective regarding crime and disorder.

Mr Chopra was then swift to implement this and an ID scanner was installed, but there were reasons conditions were applied and as a result the Police were requesting that Mr Chopra be removed as the Designated Premises Supervisor (DPS).

Mr Sam MacDonald spoke on behalf of Ms Jo Cushing stating that he had stayed at his friends and personally witnessed the nuisance. He wished to emphasis 2 points from her email relating to the noise disturbance from the venue, which had caused a decline in Ms Cushing's mental health.

Questions

In response to a member's question, it was stated that all 8 CCTV cameras at the venue were working.

It was also stated that it was uncommon for CCTV not to be provided to the police when it was requested.

Mr Chopra added that at the time of the requests there had been a family tragedy where several members of his family had passed away and this proved to be a difficult time for him.

Mrs Dianne Mitchell, Licensing officer from the Council, referred to the number of conditions that had been agreed with the licence holder and asked how these would change the business model going forward. Mr Burton added that there had been a lot of work prior to opening Cloony's and they did not want that to go to waste, however, they also now did not want the bar to be a place where people went for a late drink. They would reduce the opening hours, with Friday and Saturday nights being open until midnight and the rest of the week open until 23:00hrs. They would be looking to install a pool table and show sports. They did not want a very young crowd coming in for late drinks. There would be background music only and the garden would be closed from 21:00hrs.

There was a possibility that they would have an offering of food from around May or June this year but they needed a functioning kitchen and needed to recoup money lost over the last months before doing this.

In response to a question Mr Chopra stated that he had read the conditions of his licence but missed the condition whereby it said that there should have been an ID scanner in place. The ID scanner was then in place by mid December 2023.

Mr Sandwell confirmed there was currently no Pub Watch scheme in Reigate, operators tended to communicate on a WhatsApp group.

There were no closing submissions.

The Sub-Committee adjourned to deliberate at 11.08am and resumed at 11.41am to give its decision.

Following the review application, the **DECISION** of the Licensing & Regulatory Sub Committee is that **the conditions of the premises licence be modified as follows:**

Additional conditions to be imposed on the licence:

Upon this licence review Environmental Health are requesting the Music Deregulation Act 2012 be disapplied and the following conditions be implemented also:

Monday to Thursday	08:00 – 23:00
Friday and Saturday	08:00 – 00:00*
Sunday	08:00 – 23:00

**Background music only from 23:00 – 00:00*

- (1) The rear outside area, as defined by the boundary on plan ref (EH1) shall be closed in that it shall not be occupied by any persons (patrons, staff etc) between 21:00 hours and 09:00 hours.
- (2) Signage shall be erected in at least 3 clearly visible locations advising patrons to keep noise to a minimum/ be respectful of our neighbours within the rear outside area as defined by the boundary on plan ref (EH1). The signs wording and locations shall all be approved by the Council's Environmental Health team.
- (3) When the rear outside area is in use, as defined by the boundary on plan ref (EH1), the licensee or management shall undertake regular monitoring of patron noise levels at the nearest noise-sensitive locations. A record shall be kept of any monitoring, including the date, time and location of monitoring; the name of the monitor; and any action taken. Records shall be kept for no less than 12 months and shall be made available upon request to the police or an authorised officer of Reigate and Banstead Borough Council.
- (4) While live or recorded music takes place on the premises, the licensee or management shall undertake regular monitoring of noise levels at the nearest noise-sensitive locations. A record shall be kept of any monitoring, including the date, time and location of monitoring; the name of the monitor; and any action taken. Records shall be kept for no less than 12 months and shall be made available upon request to the police or an authorised officer of Reigate and Banstead Borough Council.
- (5) All windows and external doors shall be kept closed between 21:00 hours and 09:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
- (6) No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises that gives rise to a nuisance. For the avoidance of doubt this includes the rear outside area.
- (7) A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria:

- (a) The limiter must be set at a level determined by and to the satisfaction of an authorised Environmental Services/Protection Officer, so as to ensure that no noise nuisance is caused to local residents or businesses,
- (b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Services/Protection Officer and access shall only be by persons authorised by the Premises Licence holder,
- (c) The limiter shall not be altered without prior written agreement from Environmental Health,
- (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health, and
- (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
- (8) Speakers shall not be located/operated in the entrance lobby or outside areas of the premise.
- (9) Patrons permitted to temporarily leave and then re-enter the premises to smoke at the front of the premises, shall be restricted to a designated smoking area as defined by the boundary on plan ref (EH1). Staff shall monitor customers smoking outside the premises on a regular basis and ensure patrons do not cause a public nuisance. In addition, no food or drinks shall be taken into the smoking area at the front of the premises and no more than 6 patrons shall use the smoking area at any one time.

Request for removal of DPS

The Sub-Committee have decided that Mr Chopra should not be removed as DPS.

Reasons for the decision

1. The Licensing & Regulatory Sub Committee has carefully reviewed all the papers before it and noted all the written representations received, both for and against the review.
2. It has paid careful attention to all the oral submissions made today.
3. The Licensing & Regulatory Sub Committee has noted that the applicant agreed the conditions 1-9 above with the responsible authority for Environmental Protection
4. It also notes that there have been representations from Surrey Police.
5. The Sub-Committee do not consider it necessary that Mr Chopra should be removed as DPS in order to achieve the Licensing Objectives.

6. The Sub Committee has had regard to the relevant sections in the Council's Statement of Licensing Policy. In particular section 5: Fundamental Principles; and sections 6 and 8 which refer to the Licensing objectives relating to crime and disorder and the prevention of public nuisance.
7. The Licensing Sub Committee has given due regard to the individual merits of this application, s149 Equality Act 2010, Human Rights/ECHR legislation in particular article 8 and article 1 First Protocol and the rules of natural justice.

General Observations

8. The Licensing & Regulatory Sub Committee encourages the applicant to continue to liaise with residents if there are any ongoing issues related to the premises and residents are encouraged to notify the applicant if this is the case.
9. It would remind residents that they maintain the right to request a review of the licence should there be any subsequent breach of the licensing conditions.

The Meeting closed at 11.48 am