



## Licensing Sub-Committee

**Date:**

Wednesday, 21 April 2021

**Time:**

10.00 am

**Venue:**

A link to the meeting can be found on the front page of the agenda.

**Membership: (Quorum 3)**

Councillors Susan Cocking, Carole Jones and Emma Parker

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**Chief Executive:** Matt Prosser, South Walks House, South Walks Road, Dorchester, Dorset DT1 1UZ (Sat Nav DT1 1EE)

**For more information about this agenda please telephone Democratic Services 01305 224202 - elaine.tibble@dorsetcouncil.gov.uk**

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Due to the current coronavirus pandemic and social distancing rules, the Council has reviewed its approach to holding committee meetings. Members of the public are welcome to watch and listen to the live meeting online by using the following link:

[https://youtu.be/JhsV\\_yQCBmo](https://youtu.be/JhsV_yQCBmo)

Dorset Council is committed to being open and transparent in the way it carries out its business whenever possible. A recording of the meeting will also be available after the event.

# A G E N D A

	Page No.
<b>1      ELECTION OF CHAIRMAN AND STATEMENT FOR THE PROCEDURE OF THE MEETING</b>	5 - 8
To elect a Chairman for the meeting and the Chairman to present and explain the procedure for the meeting.	
<b>2      APOLOGIES</b>	
To receive any apologies for absence.	
<b>3      DECLARATIONS OF INTEREST</b>	
To receive any declarations of interest.	
<b>4      URGENT ITEMS</b>	
To consider any items of business which the Chairman has had prior notification and considers to be urgent pursuant to section 100B (4) b) of the Local Government Act 1972. The reason for the urgency shall be recorded in the minutes.	
<b>5      VARIATION FOR THE DOLPHIN INN, GILLINGHAM</b>	9 - 42
An application has been made to vary the licence at The Dolphin Inn at Peacemarsh in Gillingham. The application has been out to public consultation and has attracted a representation. A Licensing Sub-Committee must consider the application and representations at a public hearing.	
<b>6      EXEMPT BUSINESS</b>	
To move the exclusion of the press and the public for the following item in view of the likely disclosure of exempt information within the meaning of paragraph x of schedule 12 A to the Local Government Act 1972 (as amended).	
The public and the press will be asked to leave the meeting whilst the	

item of business is considered.

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## **TEMPORARY LICENSING SUB-COMMITTEE HEARINGS PROCEDURE AND GUIDANCE**

**The Local Authorities and Police and Crime Panels (Coronavirus)  
(Flexibility of Local Authority and Police and Crime Panel Meetings)  
(England and Wales) Regulations 2020  
and  
The Licensing Act 2003 (Hearings) Regulations 2005**

This Temporary Procedure and Guidance notes makes provision for the conduct of local authority Licensing Sub-Committee hearings, held between 4 April 2020 and 7th May 2021, and for public and press access to these meetings and are made in accordance with Coronavirus Act 2020 and The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

The following points of clarification apply throughout:

- A reference to a “meeting of the Licensing Sub-Committee” or reference to a “place” where a meeting is held, includes more than one place, electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers.
- Any reference to being “attend” “attendance” “present” at a meeting includes through remote attendance.  
“Remote access” means remote access of public and press to a Council meeting to enable them to attend or participate in that meeting by electronic means, including by telephone conference, video conference, live webcasts, and live interactive streaming.
- A Member of the Licensing Sub-Committee who is a “Member in remote attendance” attends the meeting at any time if all of the conditions in subsection section 5(3) of The Local Authorities and Police and Crime Panel (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 are satisfied, which means the Member in remote attendance is able at that time—
  - (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the Members in attendance,
  - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting, and

- (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- Any reference to a member, or a member of the public, attending a meeting includes that person attending by remote access.

#### Rights of a Party

1. A party has the right to attend the hearing and may be represented by any person.
2. A party is entitled to give further information where the authority has asked for clarification.
3. A party can question another party, and/or address the authority, with consent of the authority.

#### Failure to Attend

4. If the authority is informed a party does not wish to attend, the hearing may proceed in their absence.
5. If a party has not indicated their attendance and fails to attend the hearing may be adjourned if considered in the public interest, or hold the hearing ensuring the party's representation is considered.
6. Where the authority adjourns the hearing it shall notify the parties of the date, time and place.

#### Procedural Information

7. At the start of the hearing, the authority shall explain the procedure which it proposes to follow and shall consider any request for permission for another person to appear at the hearing.
8. A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that it is required.
9. The authority will allow the parties an equal maximum period of time in which to speak.
10. The authority may require any person behaving disruptively to be disconnected from the hearing, and may refuse that person to be reconnected, but such a person may, before the end of the hearing, submit in writing information they would have been entitled to give orally had they not been required to leave.

#### **FOOTNOTE:**

In relation to all other matters governed by the Licensing Act 2003 (Hearings) Regulations 2005 any party or their representative may contact the Licensing Department at Dorset Council and they will be provided with a full copy of the regulations on request.



## LICENSING SUB-COMMITTEE PROCEDURE

1. At the start of the meeting the Chairman will introduce:
  - the members of the sub-committee in attendance
  - the council officers in attendance
  - the parties and their representatives in attendance
2. The Chairman will then deal with any appropriate agenda items.
3. The Licensing Officer will be asked to outline the details of the application, including details of any withdrawn representations.
4. The applicant or their representative is then invited to present their case.
5. Committee members will be invited to ask questions.
6. Where appropriate the Responsible Bodies e.g. representatives of Police, Fire Services, Environmental Services or Trading Standards will be invited to address the sub-committee on any relevant representations they may have.
7. The Chairman may then allow an opportunity for questions asking each person in turn if they wish to ask a question.
8. The Chairman will ask any person who has made representations, who has already expressed a wish to do so, to address the sub-committee. The sub-committee will have read all the papers before them, including any letters of representation. Members of the public are asked to keep their comments concise and to the point.
9. All parties will be given the opportunity to “sum up” their case.
10. The Chairman will ask the Legal Advisor if all relevant points have been addressed before advising all parties present that the public part of the meeting will conclude. The sub-committee will then consider its decision in private. The sub-committee will also have the Democratic Services Officer in remote attendance, and the Legal Advisor can be called upon to offer legal guidance.
11. The decision of the Licensing Sub-Committee shall be communicated to the parties and made available on the Council's website as soon as practicable.

### NOTE

The Chairman may vary this procedure, as circumstances require but will have regard to the rules of natural justice and the Licensing Act 2003 (Hearings) Regulations 2005, and the requirements of The Local Authorities and Police and



Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

The remote meeting will be available to via web-link details of which will be set out on the agenda. However, the public can be excluded from all or part of the meeting by removal of remote access where the sub-committee considers that the public interest in so doing outweighs the public interest in the meeting or that part of the meeting, taking place in public.

Under no circumstances must the parties or their witnesses offer the sub-committee information in the absence of the other parties.

The Chairman and the Sub-Committee have discretion whether to allow new information or documents to be submitted and read at the meeting.

## Licensing Sub-Committee 21 April 2021 Variation for The Dolphin Inn, Gillingham

### For Decision

**Portfolio Holder:** Cllr J Haynes, Customer and Community Services

**Local Councillor(s):** Cllrs V Pothecary, B Ridout and D Walsh

**Executive Director:** J Sellgren, Executive Director of Place

Report Author: Aileen Powell  
Title: Licensing Team Leader  
Tel: 01258 484022  
Email: aileen.powell@dorsetcouncil.gov.uk

**Report Status:** Public

**Recommendation:** The Sub-Committee determines the application in the light of written and oral evidence and resolves to take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives of;

- a) The prevention of crime and disorder
- b) The prevention of public nuisance
- c) Public safety
- d) The protection of children from harm

**Reason for Recommendation:** The Sub-Committee must consider the oral representations and information given at the hearing before reaching a decision.

#### 1. Executive Summary

An application has been made to vary the licence at The Dolphin Inn at Peacemarsh in Gillingham. The application has been out to public consultation and has attracted a representation. A Licensing Sub-Committee must consider the application and representations at a public hearing.

## **2. Financial Implications**

Any decision of the Sub-Committee could lead to an appeal by any of the parties involved that could incur costs.

## **3. Climate implications**

None

## **4. Other Implications**

Public Health and Community Safety

## **5. Risk Assessment**

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

## **6. Equalities Impact Assessment**

Not Applicable

## **7. Appendices**

[Appendix 1 – Premises licence](#)

[Appendix 2 – Application for the variation](#)

[Appendix 3 – Representations](#)

## **8. Background Papers**

[Licensing Act](#)

[Section 182 Guidance](#)

[LGA Councillors Handbook](#)

[EHRC - Guide to the Human Rights Act for Public Authorities](#)

## **9. Details**

- 9.1. Dolphin Pub Ltd is the holder of the premises licence for The Dolphin Inn, Peacemarsh, Gillingham, SP8 4HB which currently allows: -

### **Sale of alcohol on the premises**

Monday to Sunday	10:00 to 01:30
New Year's Eve	10:00 to 02:00

**Regulated Entertainment (Indoors only)**  
Monday to Sunday            10:00 to 02:00

**Late Night Refreshment (Indoors only)**  
Monday to Sunday            23:00 to 02:00  
New Year's Eve              23:00 to 05:00

The current licence is attached at appendix 1.

- 9.2. Mr Andrew Dean on behalf of Dolphin Pub Ltd has applied to vary the area that is currently licensed to include the car park. This will enable an outside catering unit from which alcohol can be served. The full application is attached at appendix 2.
- 9.3. The application has been advertised on the premises, in a newspaper and the Councils web site.
- 9.4. One representation has been received from a resident who lives in the vicinity of the premises. The representation is included in full in appendix 3. The representation relates to public nuisance.
- 9.5. Mr Dean has responded to the representations by email which is attached in full at appendix 4. In his response Mr Dean has stated “We had fully intended to close the outside bar at 10pm on any weekday night that it is open and at 1030pm on a Friday and Saturday night”

## **10. Considerations**

- 10.1. Condition 3 in Annex 3 of the current licence states that “The use of the outside areas for all activities shall cease at 2300 hours”. This condition would apply to any area covered by this licence.
- 10.2. Paragraphs 9.42 to 9.44 of the Section 182 Guidance sets how the Authority should decide what actions are appropriate.

*9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.*

*9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.*

*9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.*

## **11. Recommendation**

- 11.1. The Sub-Committee determines the application in the light of written and oral evidence and resolves to take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives of;
- a) the prevention of crime and disorder
  - b) the prevention of public nuisance
  - c) public safety
  - d) the protection of children from harm.

- 11.2. The steps that the Sub-Committee may take are to:
- a) modify the conditions of the licence, or
  - b) reject the whole or part of the variation.

**Footnote:**

Issues relating to financial, legal, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

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Licensing Department  
Dorset Council  
South Walks House  
South Walks Road  
Dorchester  
DT1 1UZ  
Licensingteamb@ dorsetcouncil.gov.uk

## Licensing Act 2003 Premises Licence

**NDPL0266**

### Part 1 - Premises Details

#### POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

##### Dolphin Inn

Peacemarsh, Gillingham, Dorset, SP8 4HB.

Telephone 01747 822758

#### WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

#### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- an exhibition of a film
- a performance of live music
- any playing of recorded music
- provision of late night refreshment
- the supply of alcohol

#### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
B. Exhibition of films (Indoors)	Monday to Sunday New Years Eve	10:00am 10:00am	2:00am 2:00am
E. Performance of live music (Indoors)	Monday to Sunday New Years Eve	10:00am 10:00am	2:00am 2:00am
F. Playing of recorded music (Indoors)	Monday to Sunday New Years Eve	10:00am 10:00am	2:00am 2:00am
I. Late night refreshment (Indoors)	Monday to Sunday New Years Eve	11:00pm 11:00pm	2:00am 5:00am
J. Supply of alcohol for consumption ON and OFF the premises	Monday to Sunday New Years Eve	10:00am 10:00am	1:30am 2:00am

#### THE OPENING HOURS OF THE PREMISES

	Description	Time From	Time To
	Monday to Sunday	10:00am	2:00am
<b>2 January</b>	New Years Eve	10:00am	2:00am

#### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises

## Licensing Act 2003 Premises Licence

**NDPL0266**

### Part 2

#### NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

DOLPHIN PUB LTD  
1 the Centre, High Street, Gillingham, Dorset, SP8 4AB.  
[REDACTED]

#### REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

DOLPHIN PUB LTD 11782440

#### NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR OR MANAGEMENT COMMITTEE WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Andrew Leslie DEAN Telephone [REDACTED]  
[REDACTED]

#### PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. 1570 Issued by Fareham

#### ANNEXES

### Annex 1 - Mandatory Conditions

#### Supply of Alcohol (s19(2)&(3))

No supply of alcohol under the premises licence -

- (a) at a time when there is no designated premises supervisor, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence has been suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

#### Exhibition of Films (s20(2))

Admission of children must be restricted in accordance with any recommendation by the British Board of Film Classification.

### Annex 3 - Conditions attached after a Hearing by the Licensing Authority

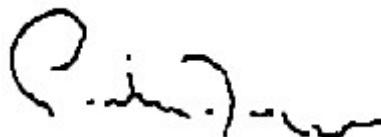
1. The licensee shall provide suitable signs at each exit from the building requesting patrons to leave the area quietly.
2. All external doors/windows must be kept closed after 2300 hours other than for access/egress when events involving amplified music or speech are taking place.

## Licensing Act 2003 Premises Licence

**NDPL0266**

### ANNEXES continued ...

3. The use of outside areas for all activities shall cease at 2300 hours.
4. The licensee or a nominated representative shall receive and respond to complaints throughout the duration of all events involving amplified music or speech.
5. Any power socket outlet and hence the power supply used with any portable appliance being used in connection with the provision of and performance of live music and/or other portable equipment for amplified music brought on to the premises by the provider of entertainment shall be connected via a residual current device (RCD) having a rating not exceeding 30 milliamps. Should an RCD be considered inappropriate for use with a specific amplification system then the licensing authority must be informed of the reasons for this.



Business Licensing

**Application to vary a premises licence under the Licensing Act 2003****PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We Mr Andrew Dean on behalf of Dolphin Pub Limited

*(Insert name(s) of applicant)*

**being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below**

Premises licence number NDPL0266
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**Part 1 – Premises Details**

Postal address of premises or, if none, ordnance survey map reference or description Dolphin Inn, Peacemarsh
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Post town	Gillingham	Postcode	SP8 4HB
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Telephone number at premises (if any)	01747 824007
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Non-domestic rateable value of premises	£12,350
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**Part 2 – Applicant details**

Daytime contact telephone number	01747 824007		
E-mail address (optional)			
Current postal address if different from premises address			
Post town	Postcode		

**Part 3 - Variation**

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible?       Yes

No

If not, from what date do you want the variation to take effect?

DD	MM	YYYY

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1)     Yes                     No

**Please describe briefly the nature of the proposed variation** (Please see guidance note 2)

To licence the grounds of the property not currently included in the premises licence plan for the retail sale of Alcohol for use both on and off the premises. This is to enable the licence holder to use a mobile outside catering facility on the car park to serve alcohol.

The premises already use the outside area for the consumption of food and drink, and this proposed variation would allow for patrons of the premises to make more use of the outside without going inside to use the main bar.

The additional staff coverage from the catering facility would enable the premises to provide an increased staffing presence outside of the main building to assist with the promotion of the 4 licensing objectives.

The additional facility outside would assist in the premises providing a more COVID safe facility by offering the option for patrons to eat and drink outside.

All current timings on the licence would stay the same, the only change is to the licensed area.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

--

#### **Part 4 Operating Schedule**

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

<b>Provision of regulated entertainment (Please see guidance note 3)</b>	<b>Please tick all that apply</b>
a) plays (if ticking yes, fill in box A)	<input type="checkbox"/>
b) films (if ticking yes, fill in box B)	<input type="checkbox"/>
c) indoor sporting events (if ticking yes, fill in box C)	<input type="checkbox"/>
d) boxing or wrestling entertainment (if ticking yes, fill in box D)	<input type="checkbox"/>
e) live music (if ticking yes, fill in box E)	<input type="checkbox"/>
f) recorded music (if ticking yes, fill in box F)	<input type="checkbox"/>
g) performances of dance (if ticking yes, fill in box G)	<input type="checkbox"/>
h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)	<input type="checkbox"/>
<b><u>Provision of late night refreshment</u></b> (if ticking yes, fill in box I)	<input type="checkbox"/>
<b><u>Supply of alcohol</u></b> (if ticking yes, fill in box J)	X

**In all cases complete boxes K, L and M**

A

Plays Standard days and timings (please read guidance note 8)			<u>Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 4)</u>	
Day	Start	Finish	Indoors	<input type="checkbox"/>
Mon			Outdoors	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed			<u>State any seasonal variations for performing plays (please read guidance note 6)</u>	
Thur				
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 7)</u>	
Sat				
Sun				

B

Films Standard days and timings (please read guidance note 8)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 4)</u>	
Day	Start	Finish	Indoors	<input type="checkbox"/>
Mon			Outdoors	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed			<u>Please give further details here (please read guidance note 5)</u>	
Thur			<u>State any seasonal variations for the exhibition of films (please read guidance note 6)</u>	
Fri			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 7)</u>	
Sat				
Sun				

C

Indoor sporting events Standard days and timings (please read guidance note 8)			<u>Please give further details (please read guidance note 5)</u>
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events (please read guidance note 6)</u>
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 7)</u>
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 4)</u>	
Day	Start	Finish	Indoors	<input type="checkbox"/>
Mon			Outdoors	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed			<u>Please give further details here (please read guidance note 5)</u>	
Thur			<u>State any seasonal variations for boxing or wrestling entertainment (please read guidance note 6)</u>	
Fri			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 7)</u>	
Sat				
Sun				

E

Live music Standard days and timings (please read guidance note 8)			<u>Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 4)</u>	
Day	Start	Finish	Indoors	<input type="checkbox"/>
Mon			Outdoors	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed			<u>State any seasonal variations for the performance of live music (please read guidance note 6)</u>	
Thur				
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 7)</u>	
Sat				
Sun				

## F

Recorded music Standard days and timings (please read guidance note 8)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 4)</u>	
Day	Start	Finish	Indoors	<input type="checkbox"/>
Mon			Outdoors	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed			<u>Please give further details here (please read guidance note 5)</u>	
Thur			<u>State any seasonal variations for the playing of recorded music (please read guidance note 6)</u>	
Fri			<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 7)</u>	
Sat				
Sun				

G

Performances of dance Standard days and timings (please read guidance note 8)			<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)	
Day	Start	Finish	Indoors	<input type="checkbox"/>
Mon			Outdoors	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed			<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 6)	
Thur				
Fri			<b><u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u></b> (please read guidance note 7)	
Sat				
Sun				

H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 8)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<b>Will this entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 4)		
			Indoors	<input type="checkbox"/>	
Mon			Outdoors	<input type="checkbox"/>	
			Both	<input type="checkbox"/>	
Tue			<u>Please give further details here</u> (please read guidance note 5)		
Wed					
Thur			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 6)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 8)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 4)</b>	
Day	Start	Finish	Indoors	<input type="checkbox"/>
Mon			Outdoors	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed			<b>State any seasonal variations for the provision of late night refreshment (please read guidance note 6)</b>	
Thur				
Fri			<b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 7)</b>	
Sat				
Sun				

J

Supply of alcohol Standard days and timings (please read guidance note 8)			Will the supply of alcohol be for consumption – please tick (please read guidance note 9)	
Day	Start	Finish	On the premises	<input type="checkbox"/>
Mon			Off the premises	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed				
Thur			<b><u>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</u></b> (please read guidance note 7)	
Fri				
Sat				
Sun				

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 10).

L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 8)			<b><u>State any seasonal variations (please read guidance note 6)</u></b>
Day	Start	Finish	
Mon			
Tue			
Wed			
Thur			<b><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 7)</u></b>
Fri			
Sat			
Sun			

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence X

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.  
The premises licence is current unavailable due to COVID restrictions

**M** Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)**

The outside facility will be always staffed by at least one (1) person when it is in use.

**b) The prevention of crime and disorder**

All alcohol to be sold from the outside catering facility will be stored inside the main building when the facility is not in use.

**c) Public safety**

All wires, fixings and power supply to the catering facility will comply with the standards set by the relevant industry sectors.

**d) The prevention of public nuisance**

There will be no outside free-standing power generator used to power the outside catering facility.

**e) The protection of children from harm**

The premises use a challenge 18 policy.

Checklist:

**Please tick to indicate agreement**

- I have made or enclosed payment of the fee; or
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I have enclosed the premises licence or relevant part of it or explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 5 – Signatures** (please read guidance note 12)

**Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	26 - FEB 2021
Capacity	COMPANY DIRECTOR .

**Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (please read guidance note 14). If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

**Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)**

Post town		Post code	
Telephone number (if any)			

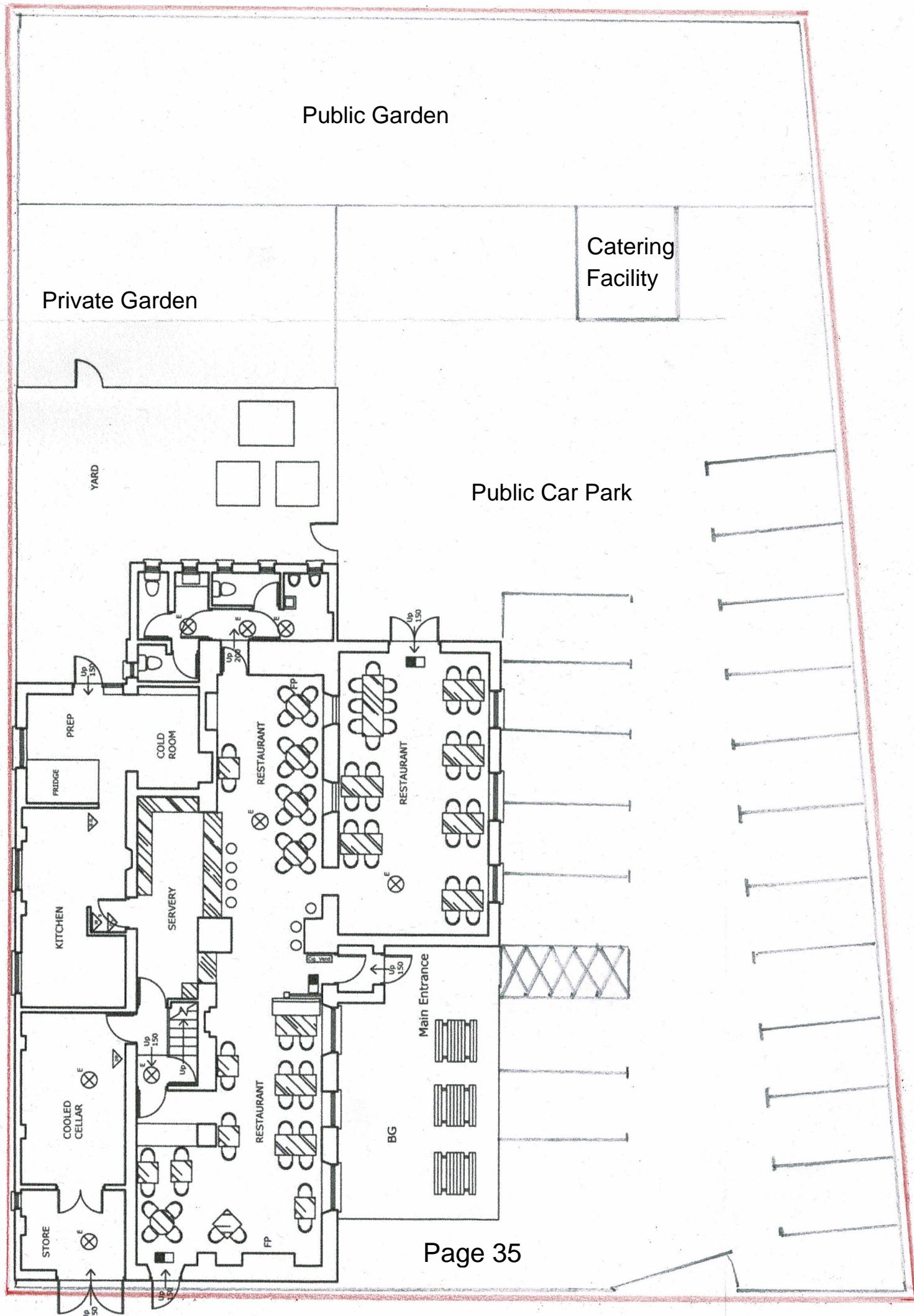
Red line to show licensed area

### Public Garden

### Catering Facility

### Private Garden

### Public Car Park



## Appendix 3 – Representation

**Sent:** 27 March 2021 21:43

**Subject:** Representation:: Licence variation - Dolphin Inn, Gillingham

To Whom It May Concern.

Firstly, and for the attention of the licensing team; We must raise that we are dissatisfied with the process overall regarding changes to licensing and the lack of requirement for notification of those who will be directly affected by any changes. Given the country's 'stay at home' instructions and only being allowed to leave our properties for a select and defined list of reasons the notification via small A4 blue notice is not appropriate nor fit for purpose in current times. We in fact found out from a 3<sup>rd</sup> party about the proposed changes having not been past the notice except in a motor vehicle. It's ultimately all too easy to presume the small notice is opening times etc. or some form of community notice rather than a matter of importance such as this.

Our representation is predominately based upon 'The prevention of public nuisance'.

Having reviewed the 'Application To Vary' and also having direct visibility of the works that have been carried out during the last month it is obvious that these are permanent changes, rather than temporary ones designed to enable the business to operate in the short term whilst COVID restrictions are in place. The items laid out below are not only for us to protect our enjoyment of our property as the current owners & occupiers, but also for any future owners / occupiers of the property.

Over the past 3 years we have seen the Pubs 'public' garden grow by approx. 100%. This has included the removal of the large vegetation border that previously gave us a degree of separation from those using the facilities and the increasing of the garden to what was previously the Pubs 'private' garden. In the past month alone an additional paving area has been laid again further increasing the usable area – something that was not shown on the Application To Vary.

The Application To Vary presents the fact that the Dolphin Inn wishes to operate what is effectively a second bar area - doubling overall capacity - in the Garden on a daily basis and without exception, until the existing licensing condition of 23:00 cessation of the use of outside areas permits. Given the likely increased footfall that the 'improvements' present, the location and times which are proposed mean that public nuisance and direct disruption to our property is all but guaranteed. If the new license is granted in its current and proposed form this will have a direct negative effect on not only our property and us as occupants, but others in the direct vicinity, those who may ultimately be unaware of the proposal for the reasons stated above.

By logic, having a bar in the garden and without the need for patrons to walk the length of the property to get to the inside bar, it is simply going to encourage people to stay for longer and consume more. Broadly speaking, the more people drink/consume, the louder they get. Increased patrons volumes, there for longer and likely louder, is going to enhance the nuisance caused by the Garden and it's immediate proximity to our property. The previous (and current) arrangement - which we still feel are too late given the Pubs distant proximity and ultimate lack of oversight of it's Garden - saw people getting tiresome of the trip into the bar and

gradually migrating out of the garden with a few 'hardcore' remaining until 23:00 if not longer.

We have a young daughter, a 15 month old, whose bedroom windows last year we are unable to open because of noise disturbing sleep and additionally smoke from the garden getting into her bedroom. To the point that her bedroom was in excess of 26 degrees – an unsafe temperature - and either of us had to stay up last year until the pub garden was cleared of patrons and then glasses removed etc. before we could open up windows. Please note specifically this was a problem last year with reduced footfall and the 'Rule of 6' in place, and it will only increase when restrictions are lifted. Additionally, noting this is a permanent change and not temporary that is being requested.

Noise and again smoke are additionally a problem in our downstairs living area – last year we had to replace the front door and seal due to smoke ingestion into the property from the garden. You can also hear constant drone of voices, shouting and laughing, over the top of for example a moderately volumed television with all doors and windows shut. This limits our ability to ventilate and also enjoy our property any time that the weather is fair, when you would like to have the doors and windows open. This does not exclude our garden which is obviously affected also.

Daytime has previously been on the bounds of acceptable, however it's at night / after dusk, when residual noise is otherwise much lower, which is when the real problems are observed and as detailed, we are greatly concerned that the changes proposed are only further going to detract from our enjoyment of the property and cause us nuisance.

In the 'Application to Vary' we do not feel that the steps for prevention of the Public nuisance are adequate, with only the noise of a generator noted – which is mitigated by using power from the main site mentioned. There is mention of a member of staff being present, but their primary role is to serve in the bar area as opposed to enforcing the license conditions (whatever they may be). What they may deem acceptable noise for example as a paid employee is likely to differ to those that are not employed by the Pub and have to listen to it 7 days a week until 23:00.

We ultimately do not feel it suitable for the Dolphin Inn to operate a second bar or 'Catering facility' in the garden given its proximity to residential dwellings and the associated impact of this. We ask additionally that as part of the review, the following are taken into consideration;

### **Control of Noise.**

- Timing variation. Suggestion: Dusk, or if must be fixed an earlier time than 23:00. If an earlier time, then the Garden is cleared of glasses etc. before that time. Glass bins etc. should additionally not be emptied at (example)7AM the following morning. Late night and early morning activity create significant disruption to sleep for those in direct locality.
- 'Application of Variation' states no alcohol to be left in the 'Outside Catering Facility' is this going to be removed nightly? If so, this is likely to be noisy with barrels and bottles etc. being moved back into the premises – presumably as close to the 23:00 proposal as possible.
- A cap on numbers – example: seated only, limited to a defined amount of benches.

- Signage asking for patrons to keep noise to a minimum and respect ‘our neighbours’
- Consider means to reduce noise transfer i.e hedging or foliage to maintain a greater border separation than the current simple wooden fence.
- Ensure tables and benches are not directly up against the fence and there is a degree of separation of a defined distance.

#### Control of Odour

- Consider making the garden non smoking and direct smokers to the already defined smoking area at the front of the Pub.
- The ‘Catering Facility’ - is this food too? This is not defined. Cooking smells, smoke (BBQs) etc. should also be considered and any impact.

#### Control of Light Pollution.

- How is this area going to be lit? Are the lights going to shine into our bedrooms? Are these lights on a timer to ensure they aren’t left on overnight etc.

We must make it known that when we bought this property we did so on the basis of a small ‘Beer Garden’ being present with a handful of benches and we enjoyed the first few years here until fundamental changes were made, with now further proposed. We did not purchase our home to be located next to a stand-alone bar setup – which is a pub in itself, in all but name - with a busy, noisy and smokey Garden.

We’re disappointed that we were not given the opportunity to informally discuss the proposals and outline any concerns that we may have had with the changes and that instead had to find out from a 3<sup>rd</sup> party and consequently with the formal process already underway submit this as our formal response for the record.

## Appendix 4 – Response From Applicant

**From:** Peter Davies  
**Sent:** 30 March 2021 17:48

Dear Kathryn,

Many thanks for kindly sending on the representation received in connection for the application to vary. In terms of meeting the application requirements for advertising I will leave this down to the authority to provide comment.

My client has provided a full response below to the comments received from the business perspective and the use of the building and surrounding grounds, and these address the points made in full contained within the representation.

The main point of the representation centres on issues they highlight under the “prevention of public nuisance”. In terms of the application they only element of the proposed variation that would be licensable is the “retail sale of alcohol” from the outside service area. It is true that my client has been making preparation for using the outside service area ahead of any licensing decision, but this is because the service of food can still take place from the outside service area in any outcome. It would therefore appear to make more sense to have the outside area licensed increasing the clients obligations to “prevent public nuisance” associated with the running of the business.

To address their main points:

### Control of noise

- Dusk – there is too much ambiguity around what time dusk would be, and furthermore would disproportionately prevent the use of the facility in winter. There is already an act which covers statutory nuisance (including noise and smells), and they also have as well as a right of review of the premises licence should these issues arise with the running of the venue should the application be granted. We believe that these provisions already provide significant protection for the representee.
- No alcohol to be left outside – this provision is to assist with “prevention of crime and disorder”. The bringing of all the alcohol inside will reduce the risks of crime, and signal the end of outside use for the evening to our patrons. We do not believe that the alcohol stored inside the facility will cause undue noise nuisance during the course of being moved inside the main building for the evening.
- A cap on the numbers – there is already legislation which covers the use of the outside area through risk assessments (H&S, RRO) and this needs to be flexible to the needs of the outside area dependant on its usage and furniture.
- Signage – My client already has signage in place.
- Consider a means to reduce noise transfer – considering the nature of the outside area, the cost of installation compared to the perceived benefit would not make this a viable option for my client.
- Ensure tables and chairs are not placed directly against the fence – I believe this is covered by my client in his email below.

### Control of Odour

- Consider making the garden a non-smoking area – This would be an unreasonable request following the introduction of the smoking ban. Even if this measure was brought in to effect, prevailing winds would be the main factor in determining which premises are potentially effected. Also forcing people to smoke outside the main door would bring people into an

- area of vehicles which presents a health and safety concern, and poses as a potential risk of flash points by forcing people to congregate outside them main door.
- Catering facility – yes this would be used for the service of food, but the smells are unlikely to be anything more significant than those already produced in their commercial kitchen.

#### Control of lighting

- This would be an issue for the planning department, but my client is not planning on introducing any additional lighting than the lighting already in place.

It is our belief that the granting of the variation would have no material effect on the existing running of the premises and would not contribute any further to the four licensing objectives. In fact we believe that the operation of the outside facility would have a positive effect on the outside area allowing for improved management and a reduction on the impacts of the four licensing objectives. Furthermore my client would be happy to discuss these issues in a formal or informal arranged meeting prior to a hearing to see if some compromise can be agreed.

I can supply our contact details or alternatively they can supply contact details should they wish to have an informal meeting without the authority present.

Kind regards

Peter Davies

**From:** [Andrew Dean](#)

**Sent:** 30 March 2021 12:57

**To:** [Peter Davies](#)

**Subject:** Re: Representation:: Licence variation - Dolphin Inn, Gillingham

Hi Pete

Happy for you to prepare your response and to talk through it with me.

I have read the notice from our neighbours at the rear and have put my thoughts below.

However these are perhaps not in the terminology that you may have to use.

Pub garden has grown slightly in size but the previous owners never made use of it, we havent removed vegetation, just a large amount of weeds and brambles, photos attached.

Paving area has been laid which is further away from his property than the current garden space. In fact we could convert the whole car park to benches if we wanted without any licence variation.. in fact the new licence being granted does not have an impact on the number of people that can drink in the garden. It simply allows for a serving area outside in which a member of staff will be present which under our current set up they are not.

We, having a young daughter ourselves, do not wish to have rowdy or bad behaviour. We run our business as a family pub and although the sound of laughter and enjoyment is encouraged, bad and unruly behaviour is not.

The new bar does not double the capacity of the garden. The capacity in the garden can be increased without the new bar/serving area, we could even put up a marquee which will increase numbers in any weather. This is being positively encouraged by the Government. The main aim is to provide an environment which prevents people having to come inside to order a drink which in these times is more responsible.

By having someone outside serving will allow us to keep a closer eye on any over consumption of alcohol and ensure that this does not happen. A presence at the bar will make the customers more aware and would help to reduce any public nuisance.

The main representation seems to be around public nuisance. The new facility will not increase the noise levels in any way. The garden will still have the same number of people regardless of the new licence being granted or not. The new bar area has been created in the car park, away from the owners property. We could have placed the bar in the current garden but considered its proximity to the owner's garden and have therefore sited it away from his garden. From the new bar I will have a view over the whole garden and will be able to monitor the garden far better than we currently do.

This application has been made with the current climate very much in mind. Our aim is to reduce the number of customers having to come inside to the bar to order drinks. We wish to encourage a more al-fresco style of dining, although the majority of our food will still be prepared inside. There will not be an increase in cooking smells as the new bar is not large enough to be able to prepare and cook food (converted horse box).

We are advised that the alcohol needs to be removed from the facility, we will not be having any large noisy barrels that you associate with cellar usage. The area is quite small and moving these around is a heavy task. We will be using a system designed for small bars and again no different in size from ones you would have in a garden bar at home. We had fully intended to close the outside bar at 10pm on any weekday night that it is open and at 1030pm on a Friday and Saturday night.

There is no requirement to have a cap on numbers. We are a family run pub and our numbers are already limited by staffing. We do not plan to simply fill the space with tables and chairs. If we wished to do that we would keep the licence as it is, not spend money on landscaping the garden and simply fill the car park with benches and a marque. In fact we could draw circles on the ground, people could bring their own seating and fill the car park with customers at two metre distances. This will have reduced our costs greatly.

In fact the owner chose to replace the border between us and his garden and even after our first year here and the garden being full of customers he chose the fencing that is in place now, rather than the noise reducing hedging that he mentions.

We already have signs up, when the garden is in use, that ask the customers to keep noise to a minimum and respect our neighbours.

Tables are not placed directly against the fence and never have been. We actually had signs asking people not to move the benches/tables. We only empty the glass bin the following day, the noise he has mentioned is the glass bin collection by the council which takes place early Wednesday morning, before/around 7am.

The garden is an outside space and therefore smoking is permitted.

The lighting in the garden has been improved.. All of the lights face inwards. The garden itself is now better lit than before which makes it easier for us to see what is going on. The lights used are those that any neighbour would use to light their own back garden if they plan to use in the warmer months and into the evenings. There would be no point shining a light upwards into the neighbours bedrooms?

The lights will be switched off at night as they always have been. We have now introduced a security light which works on the reverse of the garden lights. This is designed to come on should anyone enter the car park after the pub has closed and will only function when the garden lights are off,

hence we must ensure that the garden lights are always off at night. This security light has already been in place for sometime now and only lights the car park and not neighbours gardens.

To further improve security we have added CCTV to our premises at a large cost to us. This further shows that we are considering the well being of our staff, customers and neighbours. This facility covers the garden area, as well as the front of the pub including the entrances.

We have always tried to have a good relationship with all of our neighbours and have been keen to make sure that any problems are resolved as quickly as possible. We do not brand ourselves as a pub that promotes any behavior that may be deemed as unnecessarily. We try to limit the noise as much as possible due to the fact that we also have a young daughter who is at school and needs her sleep. We close much earlier than our current licence permits and I am keen to clear the garden before closing time. We even take into account the drinks we offer and do not even offer shots. This helps to promote alcohol consumption on a responsible level.

When they purchased their home the pub was a pub at that time and I would have thought that this point would have been raised, by their solicitor, within the local search. The assumption will have been that there will be noise associated with buying a house next to the pub. As I have stated we want people to enjoy their time here and we feel that laughter and conversation is something that we wish to promote. The change of licence isn't to help us increase levels of noise, increase customer numbers, we can do that by simply placing more tables and chairs outside which we are fully entitled to do without changing the licence. Our aim is to create a safer Covid environment, further improve the feel and impact of the outside space whilst having staff closer to the customers that are drinking in the garden.

Main points I feel but of course for you to consider. Shame in a way because only one day to go.

Having taken a considered view of all his points, it really does feel more about it being a pub garden than the change in licence. The part of the garden that backs onto his fence will have no more customers on it than it has at any other time during the two years that we have been here. We applied for the change in licence because we felt it was the most responsible thing to do. Many pubs have increased their customer numbers outside with marquees, extra tables etc without changing the licence which will allow for closer monitoring of this space. We of course could have and can do this moving forward but would prefer to do so with the amended licence and with a member of staff at the new facility.

Andy