

Licence review representations - Epsom & Ewell Borough Council – Environmental Health

Fever & Boutique, 5-8 Spread Eagle Walk, High Street, Epsom, KT19 8DN

Overview

In September 2016 a night club called Fever & Boutique began trading. The premises has previously traded as Elements under the control of different operators. When the premises was trading as Elements the smoking area was at the front of the premises and for operational reasons it was moved to the rear of the premises. When the current operators took over the premises there was a change in layout within the premises. There used to be a kitchen in the premises which has been converted to the Fever room. A plan has been provided in the evidence section of this report.

Epsom & Ewell Borough Council - Environmental Health is of the view, and support the Police's opinion, that the licensing objective of Prevention of Public Nuisance has been undermined.

Below is an overview of the involvement and staged intervention the Environmental Health team have had with the premises operators.

On 20th September 2016 the Environmental Health team received a complaint regarding noise from music and people associated with the premises. The complainant was contacted and their concerns were discussed. The complainant was advised that they had the option of using the Noise App to record any disturbances that they were experiencing.

On 30th September 2016 Charlotte Scott, Environmental Health Officer, had a meeting with Duncan Squires, Director and Andy Thornton, Manager/DPS at the premises to discuss the complaint. During this meeting the operating procedures for the premises were discussed. Charlotte Scott was advised that on Thursday nights they normally open just one room (Boutique room) and then on Friday and Saturday both rooms are open. It is mainly DJs playing the music and they are based in one location in each room. The music levels are said to be fairly constant but the DJs drop the music levels about 3am. The smoking area at the rear of the premises is created using fencing. They try to keep the smoking area to the right hand side, as people exit the premises, away from the houses. 40 to 50 people are normally in the smoking area and it is used for most of the time the premises is trading. The peak times of use of the smoking area is from midnight to 01:30hrs. The smoking area is said to be closed 45 minutes before the premises closes and the music is turned off at 3:15am. Andy Thornton, DPS, advised that managers do noise checks throughout the night, approximately every 45 minutes but they were not recording these checks. A decibel reader was also going to be purchased for the staff at the premises to use. Andy Thornton and Duncan Squires were reminded during this meeting that it was a condition of the licence (Condition 17) to record these monitoring checks.

Between the 9th October 2016 and 23 October 2016 a number of Noise App recordings were submitted by the complainant. It was decided that based on these recordings noise monitoring equipment would be installed in the complainant's property to record the

disturbances. The equipment was installed in the complainant's property on 2nd November 2016 and removed on 7th November 2016. The operators were advised that noise monitoring may be undertaken.

The recordings made by the complainant were reviewed. Based on the findings from the recordings Charlotte Scott, Environmental Health Officer had a meeting with Duncan Squires and Andy Thornton on 25th November 2016. They advised that a new acoustic door was being fitted at the rear of the premises by DB Attenuation Ltd on 12 December 2016. In addition to this the volume settings for the music had been adjusted for the Fever room. The maximum decibel level was said to be adjusted from 32dB to 24dB and from 32dB to 22dB in the bar area of this room. Whilst these figures were said to be in decibels this would be unusually low for a night club setting. Noise monitoring was being documented, however the accuracy of the sound level meter was questioned. The staff were not recording what action, if any was being taken, if they were identifying issues when completing the noise monitoring. CCTV footage was viewed by Charlotte Scott for 12 November 2016 at 23:00hrs and 00:30hrs during this meeting. The footage showed approximately 26 people in the smoking area at 23:00hrs and 40 people at 00:30hrs. At these times the premises was said to have had a capacity of between 400 and 500 people.

On 16th December 2016 Charlotte Scott, Environmental Health Officer and Oliver Nelson, Environmental Health Team Leader undertook a noise monitoring visit to the complainant's property and also the area outside of the premises. Monitoring was completed between 23:25hrs and 23:40hrs with the complainant's window open and closed. There were approximately 21 people in the smoking area and two door staff present at the time. With the window closed people noise was still audible. Monitoring was then completed outside of the property by the perimeter fence of a residential property and in the Town Hall car park between 23:40hrs and 23:45hrs. The bass of the music was more audible and people noise was still notable.

The complainant submitted Noise App recordings on 24th December 2016, 25 December 2016 and 31 December 2016.

Charlotte Scott, Environmental Health Officer attended the multi agency meeting held with representatives from Fever & Boutique on 5 January 2017. During this meeting the attendees were able to hear a selection of noise monitoring recordings provided by the complainant via the Noise App and also recordings completed by officers during their noise monitoring visits. During this meeting Andy Thornton, DPS said that they normally allow 60 people in the smoking area at any one time.

Correspondence was received from Fever & Boutique stating the changes that had been made to try and resolve the noise issues, including adjusting the rear door and blocking vents. In an email on 14 February 2017 from Nigel Blair stated that "limiting numbers is not viable as this leads to frustration from our customers having to wait to smoke".

On 10 March 2017 between 23:10hrs and 23:40hrs Charlotte Scott, Environmental Health Officer and Oliver Nelson, Environmental Health Team Leader visited the complainant's property to undertake noise monitoring to establish whether there had been any improvements with the noise from the premises. The operators had been informed noise monitoring may be undertaken. Noise monitoring was completed with both the window open

and closed. When the window was open the people noise had improved, however there were a fewer number of people compared to previous visits, and the music was barely audible.

Noise monitoring equipment was installed in the complainant's property on 16 March 2017 and removed on the 21 March 2017. Recordings were completed by the complainant on 18 March 2017 and recordings were made between 01:00hrs and 02:00hrs. These recordings are indicating that people noise is still at a level which is deemed to be unacceptable.

Summary

Whilst representatives from the premises have worked with Environmental Health Officers to try and resolve the issues with noise associated from the premises there still continues to be valid complaints. A staged approach of enforcement has been utilised but it appears that more formal intervention in the form of contribution to this review is necessary to resolve the problem. There has been some improvement in the level of music audible from outside of the premises and in the complaints property, however people noise still continues to be an issue at peak times into the early hours of the morning.

Epsom & Ewell Borough Council – Environmental Health would request that the following conditions be removed from or amended in the premises licence.

- Remove Condition 5 in Annex 2
- Amend Condition 12 in Annex 3
- Amend Condition 17 in Annex 3

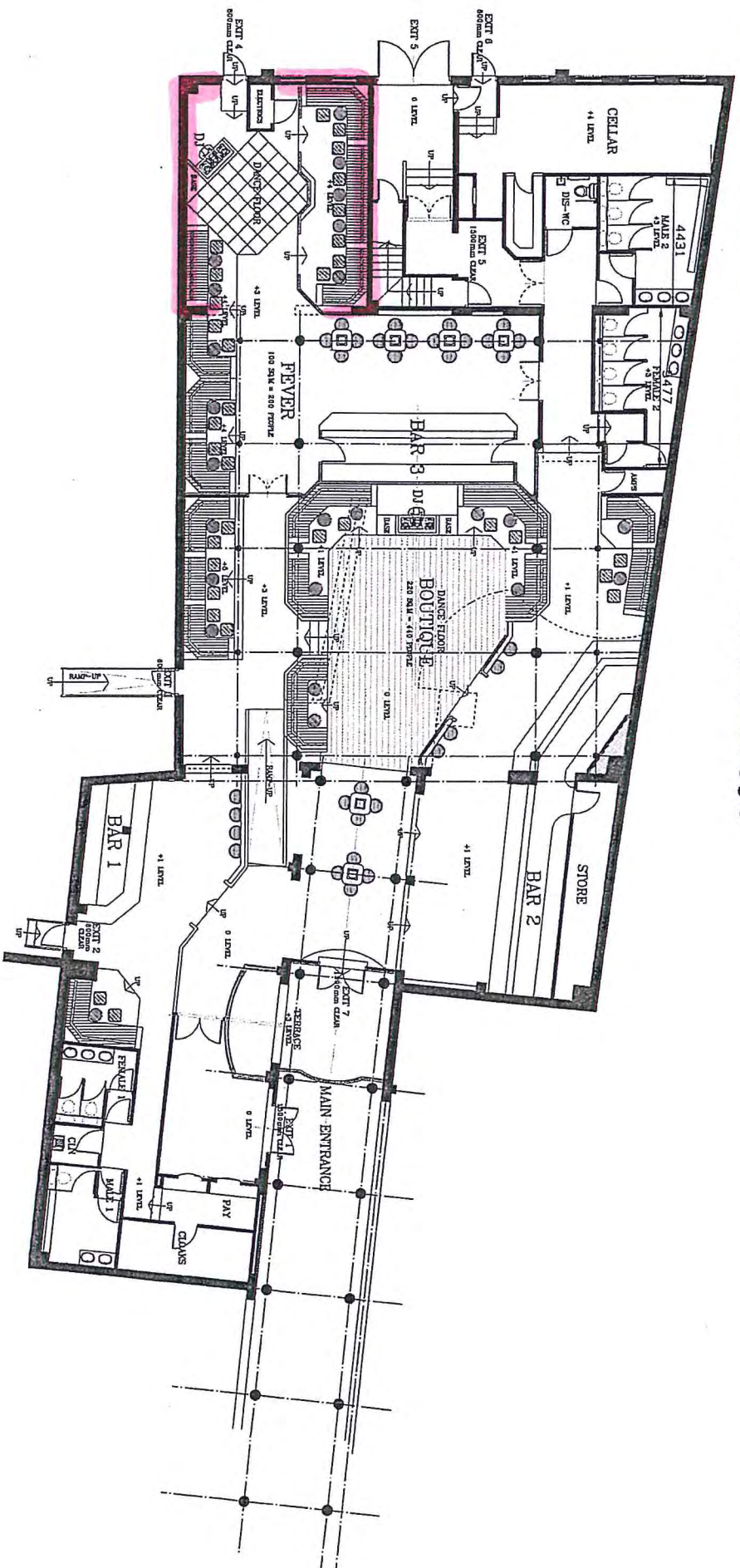
Proposed conditions have been included with this report and have also been provided to the legal representative acting on behalf Fever & Boutique prior to the hearing for comments.

Evidence provided in Appendix

- Previous and existing floor plans for the premises when operating as Elements and Fever & Boutique.
- Noise App Summary completed by complainant.
- Audio noise monitoring recordings (CD provided) completed by Environmental Health.
- Notes from noise monitoring review exercise.
- Calculation to determine the basis for number of people submitted in the smoking area (Including extract from JSNA report)
- Proposed conditions for the premises licence.

Appendix

FEVER & BOUTIQUE FLOOR PLAN



Revisions:

Date

EXIT 1	1800mm CLEAR = 300 PEOPLE	
EXIT 2	800mm CLEAR = 40 PEOPLE	
EXIT 3	800mm CLEAR = 40 PEOPLE	
EXIT 4	800mm CLEAR = 40 PEOPLE	
EXIT 5	1800mm CLEAR = 300 PEOPLE	
EXIT 6	800mm CLEAR = 40 PEOPLE	
EXIT 7	1800mm CLEAR	
TOTAL EXIT CAPACITY 840 PEOPLE		



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Client	EVERETT HARRIS	Director	XXXXXXXXXX
Project	EBSDM	Drawn Name	XXXXXXXXXX
Tile	DEPTON	Proj No	XXXXXXXXXX
Date	11/11/2011	Drawn by	ERI
Scale	1:1000	Drawing no	EP-16-002


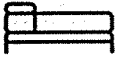
Complainant Details


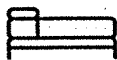
Last updated 05 Mar 2017 00:29am

Source Address

5-8 Spread Eagle Walk, High Street , Epsom, KT19 8DN

Reports

Date	Source	Location	Intensity Rating
05 Mar 2017 00:28am	 Loud Voices	 Bedroom	9/10
Comments	” Music+Loud voices		

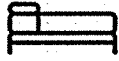
Date	Source	Location	Intensity Rating
04 Mar 2017 01:24am	 Loud Voices	 Bedroom	8/10
Comments	” -		

Date	Source	Location	Intensity Rating
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03 Mar 2017
23:08pm



Loud Voices



Bedroom

7/10

Comments

” Fence is here but is not helping much.. still I fell I got house party next door ☹

Date	Source	Location	Intensity Rating
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19 Feb 2017
01:48am



Loud Voices



Bathroom

9/10

Comments

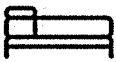
” I got masive house party at neighbours...

Date	Source	Location	Intensity Rating
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04 Feb 2017
01:37am



Loud Voices



Bedroom

8/10

Comments

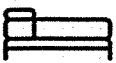
” -

Date	Source	Location	Intensity Rating
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29 Jan 2017
02:26am



Loud Voices



Bedroom

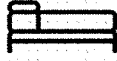
9/10


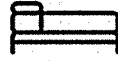
Comments

” -

Date	Source	Location	Intensity Rating
29 Jan 2017 02:23am	 Loud Voices	 Bedroom	8/10
Comments	-	-	-


Date	Source	Location	Intensity Rating
22 Jan 2017 02:16am	 Loud Voices	 Bedroom	10/10
Comments	-	-	-

Date	Source	Location	Intensity Rating
21 Jan 2017 01:52am	 Loud Voices	 Bedroom	10/10
Comments	-	-	-


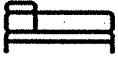
Date	Source	Location	Intensity Rating
21 Jan 2017 01:44am	 Loud Voices	 Bedroom	10/10

Comments

” Nightmare. Also just to let you know all my little trees from front garden gone, some drunk people throw them away when passing by...

Date	Source	Location	Intensity Rating
21 Jan 2017 00:12am	 Loud Voices	 Bedroom	7/10
Comments	-		
”	-		

Date	Source	Location	Intensity Rating
31 Dec 2016 01:02am	 Loud Voices	 Bedroom	8/10
Comments	-		
”	-		

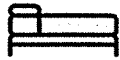
Date	Source	Location	Intensity Rating
25 Dec 2016 02:21am	 Music	 Bedroom	10/10
Comments	Christmas.		
”			

Date	Source	Location	Intensity Rating
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25 Dec 2016
00:41am



Music



Bedroom

9/10

Comments

”

-

Date

Source

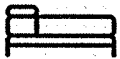
Location

Intensity
Rating

24 Dec 2016
01:13am



Loud Voices



Bedroom

9/10

Comments

”

-

Date

Source

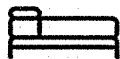
Location

Intensity
Rating

24 Dec 2016
00:28am



Music



Bedroom

10/10

Comments

”

-

Date

Source

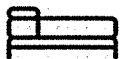
Location

Intensity
Rating

09 Oct 2016
00:42am



Music



Bedroom

10/10

Comments

”

Thursday, Friday and Saturday is the worst because of the parties and people standing outside in the smoking area right next to my house, literally 20 meters away from my bedroom and also after when party is finished people who left that party "Fever & boutique" standing drunk in front of my house and

shouting and it's impossible to sleep especially when i got a little baby in the house. Regards'

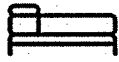
10/14/2016 1:10:10 AM

Date	Source	Location	Intensity Rating
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14 Oct 2016
01:10am



Loud Voices



Bedroom

7/10

Comments

”

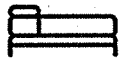
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Date	Source	Location	Intensity Rating
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15 Oct 2016
01:26am



Music



Bedroom

9/10

Comments

”

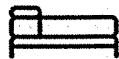
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Date	Source	Location	Intensity Rating
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16 Oct 2016
01:18am



Music



Bedroom

9/10

Comments

”

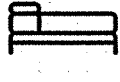
-

Date	Source	Location	Intensity Rating
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22 Oct 2016
01:02am



Loud Voices



Bedroom

10/10

Comments

”

-

Date

Source

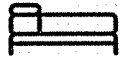
Location

Intensity
Rating

23 Oct 2016
01:46am



Music



Bedroom

10/10

Comments

”

-

EVER AND BOUTIQUE NOISE COMPLAINT

Date	Time	Duration	Comments	Notes
4/11/16	00:19:40 - 00:21:36	0:01:59	- BASS OF MUSIC - PEOPLE NOISE * TALKING * SINGING * SOME LOUDER VOICES	
5/11/16	00:23:29 - 00:28:39	0:05:11	- BASS OF MUSIC - PEOPLE NOISE * TALKING * SCREAMING * LAUGHING - BOTTLE / GLASS BEING DROPPED - MUSIC BECOMES LOUDER - SOME LYRICS AUDIBLE	→ SCREAMING SCREAM (FEMALES) SONG → JACKSON 5 - WANT YOU BACK
5/11/16	01:36:38 - 01:41:47	0:05:11	- BASS OF MUSIC - PEOPLE NOISE IN BACKGROUND * TALKING * SCREAMING * SCREAMING - MUSIC + SOME LYRICS AUDIBLE	PEOPLE SCREAMING JOHN (FEMALES) SONG → JOURNEN - DON'T STOP BELIEVING
5/11/16	02:13:32 - 02:18:39	0:05:11	- BASS OF MUSIC - PEOPLE NOISE * SWEARING * TALKING * LAUGHING * SCREAMING - GENERAL BACKGROUND NOISE - SONG TOWARDS END OF RECORDING	"F**KING HELL" - POSSIBLY - BEAT IT BY MICHAEL JACKSON.
6/11/16	00:31:27 - 00:36:34 WORDS BECOME MORE AUDIBLE POSSIBLY GREASE SUMMER LOVING	0:05:11	- BASS OF MUSIC NOT AS LOUD AT BEGINNING - PEOPLE NOISE * TALKING * SWEARING * LAUGHING * SCREAMING * CHEERING AT END.	→ INCREASES DURING RECORDING E.G. "I'M NOT BEING FUNNY" "SCOTCH" "F**K" → A LOUD CLICK - POSSIBLY COMPLAINT

Date	Time	Duration	Comments	Notes
6/11/16	00:54:20 - 00:55:23	0:01:23	- LOUD BASS. - PEOPLE NOISE + TALKING * RAISED VOICES + LAUGHING	- GETS LOUDER THROUGHOUT.
6/11/16	0:54:31 - 0:56:12		- LOUD BASS. - PEOPLE NOISE + TALKING * RAISED VOICES * CHEERING → * SHOUTING	EG "THAT'S MY MATE" SOUNDS LIKE SOMETHING FALLS OVER → METAL NOISE. - POSSIBLY STEPH.
			- POSSIBLY COMPLAINT TALKING NEXT BEGINNING	

FEVER + BOUTIQUE - NOISE MONITORING RECORD - 17/3/17 - 20/3/17.

Date	Time	Duration	Comments	Notes
18/3/2017	01:08:00 - 01:09:15		PEOPLE NOISE. - MAINLY FEMALE VOICES CAN BE HEARD - TALKING/SHOUTING AT POINTS "I'M LIKE TEN MINUTES AWAY" - SOME BASS FROM MUSIC.	" AT END OF RECORDING - SOME NOISE FROM INDIVIDUALS IN COMPLAINTANTS PROPERTY.
18/3/2017	01:42:04 01:47:15.		PEOPLE NOISE - TALKING AND SOME RAISED VOICES/SHOUTING/SCREAMING/LAUGHING GIRL SAYING "FUCKING" SOMETHING - SOME BASS FROM MUSIC	
18/3/2017	01:52:32 01:57:45.		PEOPLE NOISE -- TALKING/RAISED VOICES/SHOUTING - MALE MAKING A NOISE - METAL GATE → - GIRL CAN BE HEARD "THEN POSSIBLY "CHILL OUT" BEING REPEATED BY A MALE. GIRL/FEMALE - "WHERE IS THAT PRICK" ↳ REPEATED "WHERE IS THAT..." GIRL/FEMALE - "HE JUST KICKED ME" ↳ REPEATED	" BEGINNING OF RECORD - NOISE FROM COMPLAINTANTS PROPERTY POSSIBLY BEING OPENED/CLOSED (X) - MICROPHONE BEING TOUCHED SO SOME RUSTLING NOISE
			GIRL/FEMALE " RIGHT NOW" ALSO SOME BASS FROM THE MUSIC.	

Calculation to determine the basis for number of people permitted in the smoking area.

500 (Capacity of premises) / 14.7% (Percentage of smokers over 18 in Surrey) = 73

73 people / 3 (Number of peak hours of operation for premises) = 24 people

Number rounded down to 20 people.

Across Surrey 14.7% of people aged 18 and over are smokers (Joint Strategic Needs Assessment (26/09/2014)). A copy of the relevant section of the Joint Strategic Needs Assessment has been provided in the hearing report.

JSNA Chapter: Smoking

Section: Health Related Behaviour

Date Published: 26/09/2014 Next Review Date: 31/03/2017

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9. Key contacts
10. Chapter References
11. Signed off by

Executive Summary

Information in this executive summary was correct as at 8th August 2014. The Public Health England Tobacco Control Profiles were updated on the 4th November 2014 providing more recent information. Additional indicators have been added to the profiles although only at national level apart from low birth weight babies which is available at county level. Therefore little has been added to the local context.

Key findings overall

Smoking is the main cause of preventable illness and premature death with an estimated 459,900 hospital admissions attributed to smoking in 2010/11 and an estimated 80,000 smoking related deaths in adults aged over 35 years in 2012. 85% of COPD deaths are attributed to smoking along with one in four cancer deaths and 14% of deaths from heart and circulatory disease.

Across Surrey, 14.7% of people aged 18 and over are smokers with high rates of smoking in priority groups such as routine and manual workers (29%) and a smoking rate of 3.5-7% in pregnant women. Amongst young people 6.3% of those aged 11 to 15 are smokers and by year 13 80% of young people have tried smoking with 30% classed as regular smokers. Smoking prevalence in Surrey is lower than the England average (19.5%) but has significant ward level variation with ward smoking prevalence ranging from 6.9% in Nonsuch to 28.6% in Preston. This data highlights the need for a targeted and comprehensive tobacco control approach both geographically and demographically.

Despite numbers accessing stop smoking services falling, which is in line with national trends, quit rates in Surrey remain high at 62% (2013/14). Services see a success rate of 85% for telephone support, 56% in 1-1 GP support, 71% in group support and 49% in pharmacy services (2013/14). Action needs to be taken to ensure these services are fit for purpose in line with current public needs, that current gaps are addressed and services are readily accessible to all. Protocols need to be developed to take account of emerging trends such as nicotine vapourisers and harm reduction methods with services able to react to emerging evidence surrounding these novel methods/items.

The SmokeFree Surrey Alliance should continue to work across partner agencies to implement action to comprehensively implement the 6 strands of tobacco control including the promotion of smokefree environments to address the harms of secondhand smoke, communications surrounding the risks of illegal tobacco and the enforcement of current and emerging tobacco legislation.

The needs assessment identified the following gaps in current provision

Stop Smoking Service Provision

- **Limited specialist targeted stop smoking support** e.g. specialist services to support pregnant women, mental health service users, patients in secondary care; routine and manual workers, young people and smokeless tobacco users to quit
- **Gaps in access and uptake to services** specifically in; geographically remote areas and areas of high socioeconomic deprivation:

Proposed amendments to licence conditions

Condition 12 of Annex 3

Current condition

A dedicated smoking area shall be provided at the rear of the premises which will be covered by in house CCTV, copies of recordings shall be made available to an officer of the licensing authority or police upon demand. This area to be supervised by door staff and for the sole use of patrons from the premise.

Proposed new condition

A dedicated smoking area, to be used only by individuals smoking, shall be provided at the rear of the premises. The number of people shall be restricted to a maximum of 20 people at any one time. This area will be covered by in house CCTV and copies of recordings shall be made available to an officer of the licensing authority or any responsible authority upon demand. This area shall be supervised by two door staff and for the sole use of patrons from the premises. The smoking area shall be closed at 1am.

Condition 17 of Annex 3

Current condition

Throughout the normal opening hours of the premises, hourly patrols of the perimeter of the premises shall be carried out by staff equipped with appropriate noise measuring devices during which observations/measurements of noise and disturbance shall be made and documented and shall be kept in a written log together with any resultive action taken. Documents shall be made available for inspection by an authorised officer of any responsible authority.

Proposed new condition

Throughout the normal opening hours of the premises, half an hour patrols of the perimeter of the premises shall be carried out by staff. During these patrols observations/measurements of noise and disturbance shall be made and documented and shall be kept in a written log together with any resultive action taken. Documents shall be made available for inspection by an authorised officer of any responsible authority.