Please reply to:

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Date: 6 June 2014

#### **Notice of Meeting**

#### **Licensing Sub-Committee**

Date: Monday, 16 June 2014

**Time:** 10.00am

Place: Council Chamber, Council Offices, Knowle Green, Staines

To the members of the Licensing Sub-Committee

Councillors: R.W. Sider (Chairman), A. Ayub and C.A. Bannister

**Note:** In the event of one of the aforementioned Licensing Committee Members being unable to attend or serve on this Sub-Committee another Member of the Licensing Committee will be called to serve in their place.

#### **AGENDA**

#### 1. Disclosures of Interest

To receive any disclosures of interest from members in accordance with the Council's Code of Conduct for members.

## 2. To consider an application for a Premises Licence by Mr A. Ali at 19 The Parade, Sunbury Cross, Sunbury on Thames, TW16 7AB, in light of representations.

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### **Licensing Act 2003**

# Hearing procedure for Licensing Sub-Committee – premises licence applications/variations

	Introductions
1.	The Chairman will open the meeting, introduce members of the Sub-Committee and officers present and explain the nature of the decision to be taken and the procedure to be followed.
2.	The Applicant or their representative will introduce themselves to the Sub-Committee.
3.	Any Other Persons (and their representative, if applicable) will introduce themselves to the Sub-Committee.
	Summary of Application and Representations
4.	The Council's Licensing Manager will outline the application, any relevant representations and highlight any points relevant to the Licensing Authority's Statement of Licensing Policy and statutory guidance. OR summarise the salient points of the report on the agenda.
5.	The Applicant or their representative may ask the Licensing Manager <b>QUESTIONS</b> arising from what he/she has said or relating to the application. (The Applicant will have the opportunity to state his/her case later).
6.	Any Other Persons may ask relevant questions of the Council's Licensing Manager.
7.	The members of the Sub-Committee may ask relevant questions of the Council's Licensing Manager.
8.	The Council's Licensing Manager may respond to any new issues raised.
	The Applicant's Case
9.	The Applicant or their representative will present their case.*
10.	Any Other Persons may ask relevant questions of the Applicant or their representative.
11.	The members of the Sub-Committee may ask relevant questions of the Applicant or their representative.
12.	The Applicant may respond to any new issues raised.

	The Other Persons Case
13.	Any Other Persons will present their case, (and call on their representative, if applicable) in turn.*
14.	The Applicant or their representative may ask relevant questions of the Other Persons.
15.	The members of the Sub-Committee may ask relevant questions of the Other Persons.
16.	The Other Persons may respond to any new issues raised.
	Summing Up
17.	The Chairman will invite the Other Persons to briefly summarise their case if they so wish.
18.	The Chairman will invite the Applicant or their representative to briefly summarise their case if they so wish.
19.	The Chairman will then ask all parties if they are satisfied they have said all they wish to.
	Decision
20.	The members of the Sub-Committee will retire to reach a decision in private, accompanied by the Council's legal officer and Committee Manager.
21.	Members of the Sub-Committee return. The Chairman will announce the decision of the Sub-Committee with (summary or full) reasons for the decision.
22.	Meeting closed.
23.	The Council's legal officer will remain in the room to assist all parties should they require clarification of the decision and/or next steps.

#### **GUIDANCE NOTES**

\*The Licensing Authority will allow the parties an equal maximum period of time in which to address the Sub-Committee, but request that all parties keep points pertinent and the discussion moving in the interests of cost and efficiency. However, the overriding principle for the Licensing Authority will be to ensure that all parties receive a fair hearing.

- (a) Cross examination of parties is at the discretion of the Sub-Committee.
- (b) When the Applicant questions the Licensing Manager or any other party he/she should not go into the merits of his/her case as he/she will have an opportunity to

Agenda Item: 2

- present it at Stage 9. He/she should only ask questions relating to what the Licensing Manager or other person has said or relating to the application as a whole.
- (c) The Applicant or any other party may be represented by a friend or a professional person to speak on his/her behalf who will follow the same procedure as described above and who may call the Applicant as a witness.
- (d) The order or proceedings may be varied by the Chairman if he/she thinks that it is necessary to do so in the interests of affording the Applicant a fair hearing or in order to take into account all relevant considerations.
- (e) If, after the Sub-Committee has withdrawn to make their decision, they decide that they need to ask a question of any of the parties involved in the proceedings or to clarify any matter then they shall do so in the presence of all parties.
- (f) Members of the Sub-Committee must be present throughout the hearing and must not communicate with any party involved in the proceedings except for when they are in the presence of all of the parties and the remainder of the Sub-Committee.

Agenda Item: 2

# Licensing Sub-Committee 16 June 2014



Subject	Application for a <b>new</b> Premises Licence at 19 The Parade, Sunbury Cross, Sunbury on Thames, TW16 7AB						
Purpose	For determination						
Report of	Assistant Chief Executive Ward Sunbury Common						
Contact	Dawn Morrison, Licensing Manager, (01784) 446432						

Description and Location	A premises forming part of a parade of shops located near to both business and residential properties. Location plan at <b>Appendix A.</b>
The Application	The application is to permit the sale of alcohol for consumption off the premises. The hours originally proposed for the sale of alcohol were 06.00 to 01.00 daily. <b>Appendix B</b> The application was subsequently amended to reduce the hours to 08:00 to 21.30 daily and a copy of the proposed conditions, and email confirming the amendment, is attached at <b>Appendix C</b> .
Representations	Relevant representations were received from nearby residents and businesses on the grounds of prevention of crime and disorder and the prevention of public nuisance, attached at <b>Appendix E</b> .
Options	<ol> <li>The Sub-Committee is requested to consider the application for the grant of a premises licence on its merits.</li> <li>Having had regard to the representations the Sub-Committee must decide on one or more of the following options as it considers appropriate for the promotion of the licensing objectives:</li> <li>To grant the application subject only to such conditions as are consistent with the operating schedule and the mandatory conditions; or</li> <li>To grant the application and modify the conditions of the licence, by alteration, addition or omission or</li> <li>To reject the whole or part of the application.</li> </ol>

#### 1. Background

- 1.1 19 The Parade, Sunbury Cross, Sunbury-on-Thames, TW16 7AB, forms part of a parade of shops situated at Sunbury Cross, at the junction of Staines Road West and Vicarage Road.
- 1.2 Although the premises is located in a mainly commercial area, residential properties are situated above the parade of shops and in the surrounding area. Other shops in the parade include a wide range of businesses, including an estate agent's, opticians, library, pharmacy, betting shop, food take-aways and three other licensed premises.
- 1.3 The shop is within an area where it is proposed to introduce a Designated Public Place Order under Section 13 of the Criminal Justice and Police Act 2001 and Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.

#### 2. Application summary

- 2.1 On 25 April 2014 Spelthorne Borough Council received the application for the grant of a new premises licence to permit the sale of alcohol between 06.00am and 01.00am seven days a week.
- 2.2 The public was consulted in accordance with the Licensing Act 2003 by way of a blue poster detailing the application, which was displayed at the premises for 28 consecutive days from 25 April 2014 to 23 May 2014.
- 2.3 A newspaper public notice advertising the application was also published in the Herald and News on Thursday 1 May 2014.
- 2.4 On 20 May 2014, following a meeting with Surrey Police Licensing Officers, Mr Ali, the applicant and proposed Designated Premises Supervisor (DPS), confirmed by email that he wished to amend his application by reducing the extension of hours and proposing an amendment to the Operating Schedule to enable a range of specific conditions to be attached to the licence.
- 2.5 The amended application requests that the licensing hours permitting the sale of alcohol be reduced to 08.00 to 21.30 seven days a week. The aforementioned documents showing the proposed conditions and the email from the applicant requesting the reduction in licensing hours is provided as **Appendix C.**

#### **Licensing Objectives**

2.6 The Licensing Objectives together with examples from Government Guidance are set out below for information:

#### Prevention of crime and disorder

- Criminal behaviour on, or directly attributable to, the premises.
- Under age sales
- Anti-social behaviour on, or directly attributable to, the premises.

#### **Public safety**

• Overcrowding, fire safety, emergency exits and anything related to the safety of the public within the premises.

#### Prevention of public nuisance

- Noise/light or odour nuisance
- Litter

#### Protection of children from harm

 In relation to off sales of alcohol, the most relevant issue under this licensing objective is the prevention of sales of alcohol to under 18s

#### 3. Representations

#### 3.1 i) Representations from Responsible Authorities

Following a meeting with Surrey Police Licensing Officer, Simon Bate, the applicant, Mr Ali, agreed to reduce the hours for the sale of alcohol and other specific conditions being attached to the licence. The documents outlining the proposed conditions agreed by Mr Ali are provided as **Appendix C**. Following the subsequent amendment of the application to reduce the hours, Surrey Police withdrew its representation. **Appendix D** 

#### ii) Representations from 'other persons'

- 3.1 Five relevant representations were received from other persons in relation to the original application and two petitions signed by local businesses and residents. The representatives were notified of the amendment to the application on 20 May 2014 and were asked to notify the Licensing Authority if they would like to withdraw their objection in the light of this information. No notifications of withdrawal had been received at the time of writing this report. The representations are attached at **Appendix E.**
- 3.2 The grounds upon which the representations against this application are made, under two of the four licensing objectives, are shown below

#### Prevention of crime and disorder

- that the grant of the licence would undermine the proposal by Spelthorne Borough Council to make an order to designate the area of Sunbury Cross, including The Parade, as a 'designated public place' under Section 13 of the Criminal Justice and Police Act 2001 and Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.
- increase in alcohol related crime
- urinating and defecating in the alleyways and stairwells of private residential premises, offensive language

#### Prevention of public nuisance

- contribute to the existing problem of street/park drinkers in the Sunbury Cross area
- contribute to the anti-social behaviour by street drinkers/alcoholics hanging around the shops
- increase traffic noise and other late night noise from dispersing customers
- littering of beer cans and bottles

- 3.3 Issues which are not relevant to the licensing objectives and cannot be taken into account by a Licensing Sub-Committee:
  - Objections on the basis of need, or lack of need, for premises to sell alcohol
  - Objections on the basis of saturation of the local market
  - Objections on the basis of parking provision in the area

## 4. Additional conditions volunteered by the applicant following discussions with Environmental Health/Surrey Police (if relevant)

4.1 Conditions volunteered by the applicant following discussions with Surrey Police Licensing Officer, Simon Bate, are provided within **Appendix C**.

#### 5. Licensing Policy

- 5.1 The following sections of the Council's Licensing Policy are relevant.
  - Section 3 Licensing Objectives and Licensable Activities
  - 14.1 Licensing Hours General
  - 14.2 Shops, stores and supermarkets

#### 6. National Guidance

- 6.1 The following sections of the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 are relevant in the consideration of this application:
  - 10.11 to 10.13 (Hours of trading)

These sections are attached at **Appendix F.** 

#### 7. Making a decision

- 7.1 In making its decision the Sub-Committee must promote the licensing objectives only, taking into account National Guidance and Spelthorne's Statement of Licensing Policy.
- 7.2 The Sub-Committee must give reasons for its decision.
- 7.3 It is only where additional and supplementary measures are appropriate to promote the licensing objectives that there will be a requirement for appropriate, proportionate conditions to be attached.
- 7.4 Conditions on licences must:
  - be precise and enforceable;
  - be unambiguous;
  - not duplicate other statutory provisions;
  - be clear in what they intend to achieve; and,
  - be appropriate, proportionate and justifiable.
- 7.5 It is important in considering the promotion of the licensing objective on prevention of public nuisance, that the Sub-Committee focuses on any disproportionate or unreasonable effect the licensable activities at the premises, have on persons living and working in the area around the premises.

#### Appendices:

Appendix A – Location Plan

**Appendix B – Current Application** 

**Appendix C – Documents confirming amendments to application** 

Appendix D – Police withdrawal

**Appendix E – Representations** 

**Appendix F – Relevant section of National Guidance S.182** 

APPENDIX 19 The Parade, Sunbury-on-Thames THE PARADE This printout is for Spelthorne Business Use only and may not be passed to anyone outside the Authority. If you receive a request for mapping data from outside the Authority, please email 3635llpg@spelthorne.gov.uk. Highlighted Feature Legend SPELTHORNE Selected Features Spelthome Borough Boundary Addresses

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a) General - all four licensing objectives (b,c,d,e) (please read guidance note 9)

All staff making sales of alcohol must be a Personal Licence holder or trained and authorised in writing by the Designated Premises Supervisor.

Training records will be kept and can be produced if requested by the police or council officers.

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Part 4 - Shgaaydaa iyaasaa had gaalaasa xaa 100

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

A Closed Circuit Television System will be installed and maintained on the premises. The CCTV system will be recording at all times when the premises are open and the recordings shall be made available to the police and the council on request.

#### c) Public safety

Fire safety equipment will be checked regularly and any requirements made by the Fire Safety Officer will be complied with.

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## engling and the second of the company of the compan d) The prevention of public nuisance

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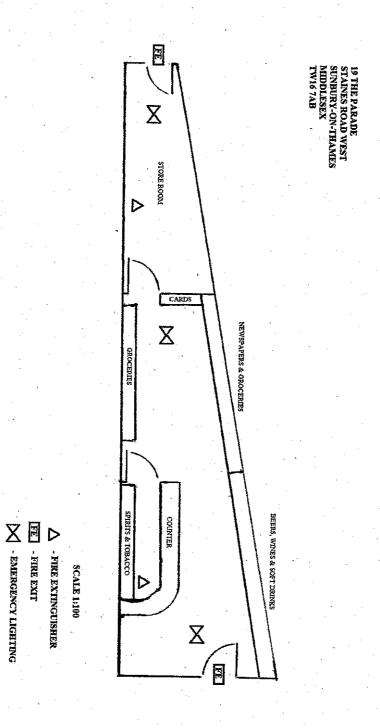
## e) The protection of children from harm

All staff will be trained that alcohol will only be sold to persons who can produce photographic identification where there is any doubt that they are over the age of 18

All persons who appear to be under 25 will be challenged to produce photographic identification.

There will be signage kept by the till as a visual prompt for staff to ask for identification for all age related products and a record of all refused sales will be kept and be produced if requested by the police or council officers.

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APPENDIX C

Our Ref: Your Ref:

Mr Abbas Ali, C/O Express Stop Store 19 The Parade Staines Road West Sunbury On Thames Middlesex TW16 7AB

Police Licensing Office
Runnymede Civic Centre,
Station Road,
Addlestone. Surrey KT15 2NW

 $20^{TH}$  MAY 2014

# Express Stop Store 19, The Parade Staines Road West Sunbury on Thames TW16 7AB

Dear Mr Ali,

With regards to the above application, for the grant of a premises licence in accordance with section 17 of the Licensing Act 2003.

The application in its current form is unacceptable to Police with the following area of concern.

The sale/supply of alcohol for consumption OFF the premises.

We believe that the granting of this request would result in the likely increase of Crime and Disorder and Public Nuisance both at the premises and near vicinity.

To resolve our outstanding concerns, I ask that consideration be given to agreeing to the following times and conditions:

Yours Faithfully

Simon Bate 13153 Police Licensing Officer

#### Suggested Police Conditions: - Express Stop

- Reduce Hours: The standard days and timings box on page 17 of my application, covering the sale or supply of alcohol, will be amended to read 0800am to 21:30hrs.
- 2. Staff Training:- The licence holder shall ensure that all staff selling or serving alcohol are trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years for evidence of age. This evidence shall be photographic, such as passport or photographic driving licence. All staff will also be instructed, through a written training program, that sales shall not be made unless this evidence is produced. Written staff training records will also be given to non personnel licence holders on not serving drunken person and not allowing disorderly conduct on premises. Staff training will be carried out at intervals no less than twice a year and on new staff induction. Written records will be made available for inspection officers of the Licensing Authority, Police and Surrey County Council Trading Standards officers.
- 3. CCTV:- A CCTV system with recording and monitoring facilities will be installed at the site prior to any licensable activity taking place in all areas both internal and externally to which the public have access including areas where licensable activities take place. The system shall be fitted and maintained in good working order and fitted to a standard recommended by the Police Crime reduction Officer. It shall be operational at all times when licensable activities are taking place. The system shall incorporate a method of recording the date and time of the recording. Images shall be of evidential quality and will be retained for 30 days and will be made available on request by officers of the Licensing Authority, Police and Surrey County Council Trading Standards officers.
- 4. Storage: All spirits will be stored or displayed behind the counter and all alcohol including spirits will be located in Chillers and or display cabinets which can be secured at the discretion of staff members and within full view of the till. Except for alcohol stored behind the counter, No alcohol products will be displayed for sale within three metres of the entrance/exit of the store
- 5. High ABV Content: No single can of beer, lager or cider above 6% ABV is to be sold (such products only to be sold in multi-packs).
- 6. Refusal Register:- A register of all refused sales shall be kept at the premises and a record of every refused sale shall be entered into the register showing the date and time of refusal, details of the product and the individual refused and the name of the person who refused it. The register shall be kept on the premises at all times and made available for inspection on request by officers of the Licensing Authority, Police and Surrey County Council Trading Standards officers.

### Danson, Reba

From:

abbas ali <

Sent:

20 May 2014 14:04

To:

Danson, Reba

Cc:

bate13153@surrey.pnn.police.uk

Subject:

Meeting with Mr. Simon Bate for Express Stop 19 The Parade Stained Road West

**Attachments:** 

offdoc1 001.jpg; offdoc2 001.jpg; offdoc3 001.jpg; offdoc4 001.jpg

Dear Madam,

As per my meeting with Mr. Simon Bate today at Esher Civic Centre, please find herewith following attached file for your record.

Thanking you,

Regards.

Abbas Ali

20<sup>th</sup> May 2014

Dear Reba Danson,

On 20<sup>th</sup> May 2014 I met with Mr Bate Police Licensing Officer to discuss some Police concerns with regards to our New Premises License application for Express Stop. Located at The Parade Staines Road West Sunbury on Thames. In response to those concerns I am writing to volunteer the following conditions and ask that they are added to any new licence issue. The below conditions are in addition to those already stated within my operating schedule.

- 1. **Reduce Hours:** The standard days and timings box on page 17 of my application, covering the sale or supply of alcohol, will be amended to read 0800am to 21:30hrs.
- 2. Staff Training:- The licence holder shall ensure that all staff selling or serving alcohol are trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years for evidence of age. This evidence shall be photographic, such as passport or photographic driving licence. All staff will also be instructed, through a written training program, that sales shall not be made unless this evidence is produced. Written staff training records will also be given to non personnel licence holders on not serving drunken person and not allowing disorderly conduct on premises. Staff training will be carried out at intervals no less than twice a year and on new staff induction. Written records will be made available for inspection officers of the Licensing Authority, Police and Surrey County Council Trading Standards officers.
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Signed .....

Date 20th May 2014

#### MEMORANDUM OF UNDERSTANDING

Express Stop,

19, The parade Staines Road West Sunbury Surrey (the "Premises")

One of the Police concerns is the lack of my operational experience in the sale of alcohol and responsibilities of Designated Premises Supervisor duties.

The management of the Premises agree to introduce the following provisions upon the Grant of any Premises Licence to Sell/Supply Alcohol at the above premises:-

• I agree that over a three week period I will work front of house in a designated licensed premises alongside a competent person who has a proven history of good practice in alcohol sales so as to further enhance my currently limited licensing experience. I will then be willing for Surrey Police or Spelthorne Borough Council to revaluate this collaborative agreement with an aspiration of a future amendment.

Signed

Pu

Mr Abbas Ali 20th May 2014

Agenda Item: 2

## **Appendix D**

From: Bate, Simon 13153 Sent: 20 May 2014 15.28 To: Danson, Reba

Subject: Meeting with Mr Simon Bate for express Stop 19 The Parade Stained

**Road West** 

Attachments: offdoc1 001.jpg; offdoc2 001.jpg; offdoc3 001.jpg; offdoc4

001.jpg

#### Reba

With the deadline fast approaching please see the attached documents Doc1 goes with Doc4, Doc 2goes with Doc 3

The main points are: the applicant is asking for his application to be amended to read 8am to 9:30pm for alcohol sales plus a host of conditions and a memorandum of understanding re further training.

I have the signed original.

I have copied in Sgt Scott and if he is happy and you are we will withdraw our representation.

Regards Simon

Elmbridge Police Licensing Enforcement Officer Esher Police Office Level 1 Esher Civic Centre High Street. Esher KT10 9SD

# Imposed conditions

# Appendix F

- 10.8 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.
- 10.9 It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

## **Proportionality**

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

## Hours of trading

- 10.11 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.12 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 10.13 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

# The performance of plays

10.14 The 2003 Act provides that other than for the purposes of public safety, conditions must not be attached to premises licences or club premises certificates authorising the performance of a play which attempt to censor or modify the content of plays in any way. Any such condition would be ultra vires the 2003 Act.