

**Minutes of the Licensing Sub-Committee
20 April 2018**

Present:

Councillor J.R. Boughtflower, R. Chandler and Q.R. Edgington

In attendance for the applicant:

Mr R Botkai, Solicitor, Winckworth Sherwood

Ms N Law, MRH

Ms T Vlahovic, MRH

Interested Parties in attendance:

Councillor R. Sider BEM, on behalf of Mr. J. Edwards

In attendance for the local licensing authority:

Lucy Hopkins, Licensing Officer

Robert Thomas, Licensing Enforcement Officer

93/18 Election of Chairman for meeting

It was proposed by Councillor Q. Edgington and seconded by Councillor R. Chandler and:

resolved that Councillor J. Boughtflower be appointed Chairman of the Licensing Sub-Committee for the duration of the meeting.

94/18 Disclosures of Interest

There were none.

95/18 To consider an application for a variation to the Premises Licence at MRH Shepperton, Walton Bridge Road, Shepperton, in the light of representations

The Chairman introduced members and officers present and welcomed everyone to the meeting.

The Chairman asked the applicants and their representative and other parties to introduce themselves. He then explained the procedure to be followed at the hearing.

The Council's Licensing Enforcement Officer summarised the application which was set out in full in the report of the Deputy Chief Executive.

Having heard the evidence presented, the Sub-Committee retired to consider and determine the application, having regard to the licensing objectives on prevention of crime and disorder and prevention of public nuisance.

Upon reconvening, the Chairman gave the Sub-Committee's summary decision.

The full decision with reasons would be notified to the applicant and other parties within five working days of the hearing.

Resolved that the application to vary the Premises Licence at MRH, Walton Bridge Road, Shepperton, be granted subject to modification to conditions, as set out in full in the attached Decision Notice.



Please reply to:

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Service: Committee Services
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Our ref: GH/LIC
Date: 25 April 2018

SPELTHORNE BOROUGH COUNCIL

DECISION NOTICE

In accordance with the LICENSING ACT 2003 s.23

Date of Licensing Sub-Committee: 20 April 2018

Applicant: Malthurst Limited

Premises: MRH Shepperton
Walton Bridge Road
Shepperton
TW17 8NE

REASON(S) FOR HEARING: Relevant representations received from other parties concerning Crime and Disorder and Prevention of Public Nuisance:-

- Likely increase in crime and disorder through a threat of alcohol related anti-social behaviour
- Likely increase in noise and litter

DECISION

Granted subject to modification of conditions
With effect from 20 April 2018

REASONS FOR DECISION

1. The application is for a variation to the premises licence at MRH Shepperton, Walton Bridge Road, Shepperton, TW17 8NE.

Attendance

2. Four people attended the Sub-Committee hearing to make representations. They are:
 - Nicola Law and Tina Vlahovic, Applicants on behalf of Malthurst Limited;
 - Robert Botkai, representative for applicant;
 - Councillor R.W. Sider BEM, Ward Councillor for Shepperton Town on behalf of the representee

Evidence

3. The Licensing Sub-Committee considered all of the relevant evidence made available to it at the hearing including:
 - The Report of the Deputy Chief Executive outlining the matter to be considered
 - Written representation from one interested party

In addition the following documents were circulated prior to the hearing:

- An e-mail exchange between Surrey Police and the applicant's solicitor which agrees amended wording for the CCTV system and replaces conditions 1-6 of the operating schedule under the heading "The Prevention of Crime and Disorder".
4. In considering all of this evidence, the Sub-Committee has taken into account the Regulations and National Guidance under the Licensing Act 2003 and Spelthorne Borough Council's Statement of Licensing Policy.

Application

5. On 22 February 2018 Spelthorne Borough Council received an application to vary the premises licence. The application was to:
 - Extend the licensing hours for the sale of alcohol for consumption off the premises from 6am to 10pm seven days per week to 24 hours daily;
 - Remove conditions 1 to 7 inclusive from Annex 2 of the premises licence;
 - Include in Annex 2 of the premises licence the conditions in boxes b to e of section 16 of the application;
 - Make alterations to the premises.

6. The public was consulted in accordance with the Licensing Act 2003. A blue poster detailing the application was displayed at the premises for 28 consecutive days. An advert for the application was also published in the Chronicle and Informer Staines edition on 2 March 2018.
7. The application generated one representation from other parties. No representation was made by any of the responsible authorities.
8. Spelthorne Borough Council received an email from the applicant's representative on 2 March 2018 advising that following discussion with Surrey Police they were amending the application submitted and wanted to replace conditions 1-6 of the operating schedule under the heading "The Prevention of Crime and Disorder" with the following:

"A suitable and efficient CCTV system with recording facilities will be in place at the site and will operate at all times that the premises is open for licensable activities. The Premises Licence Holder must ensure that at all times that a DPS or appointed member of staff from the premises who can operate the system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show police recent data or footage with the minimum of delay when requested. (This may involve temporarily closing the premises when there is only one member of staff at the premises). The Premises Licence Holder must also ensure that at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a readable format, either disc or VHS, to the police/local authority within 48 hours of request. The CCTV system will include a camera that covers the night pay window and is to the reasonable satisfaction of Surrey Police."

The above condition will replace conditions 1-6 in box (b) of the operating schedule under the heading "The Prevention of Crime and Disorder".

EVIDENCE

Background

9. The premises, a service station shop known as 'Esso', are situated adjacent to a roundabout on the main road from Shepperton to Walton located nearby residential properties.
10. An application was submitted by Malthurst Limited to transfer the premises licence on 14 July 2015 which took effect from 20 July 2015. The current premises licence is still in the name of Malthurst Limited.

11. The Designated Premises Supervisor has been in place since 1 July 2016.

Applicant

12. Mr Botkai, solicitor for the applicant said there had been some problems arising from the sale of alcohol at these premises in the past under a different operator but there had been no incidents since MRH had taken over the premises. No complaints had been received by the Licensing Department.
13. No representations had been made by any Responsible Authority. The applicant had consulted with Surrey Police in advance and amended the CCTV condition to their satisfaction. The police had not raised any concerns about the later hours requested for sale of alcohol.
14. The staff at the premises conduct a litter patrol every morning.
15. The opening hours are currently 24 hours daily, however alcohol is only allowed to be sold from 06.00 to 22.00 daily. Late night refreshments are sold from 23.00 to 05.00 daily. The applicant does not anticipate a significant increase in sales of alcohol as a result of this application but wanted to offer a full range when they are open.
16. MRH has over 200 premises and the significant experience from these premises has not shown that an increase in the hours during which alcohol is sold results in an increase in anti-social behavior or noise levels.
17. The applicant's representative drew the Sub-Committee's attention to the s182 Guidance, paragraph 10.15 which states that, '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'. He also referred to the Council's Licensing Policy stating that it mirrors the National Guidance at paragraph 16.2 which says there should be very good reasons for restricting the hours. For example for shops known to be the focus of disorder and disturbance, or where youths gather and behave anti-socially, following police representations. No such representation had been received from the police.
18. The Licensing Officer had made an unplanned visit to the premises in the previous week and had not raised any issues, except that a litter notice was not displayed. The applicant had added a temporary notice to an existing sign until a permanent one could be erected.

19. Prior to the hearing the applicant had agreed as a result of discussion with Councillor Sider to retain condition 7 on the existing premises licence, which requires a notice to be prominently displayed asking customers to respect the neighbours and dispose of litter considerately.
20. In response to questions from the Sub-Committee the applicant stated that they would be happy to provide contact details of MRH head office to the neighbour, Mr Edwards, and if invited to a residents' meeting they would be happy to attend.

Representatives

21. Written representation was received from one party raising the following objections to the variation application under the licensing objectives:

Prevention of crime and disorder

- Likely increase in crime and disorder through a threat of alcohol related anti-social and disorderly behaviour
- Possibility of sale of alcohol to under age persons
- Possibility of public urination

Prevention of public nuisance

- Noise from deliveries and customers using the premises
 - increased littering of cans and bottles
 - Bottles and cans being thrown into gardens damaging property
22. Councillor Robin Sider, Ward Councillor for Shepperton Town, attended the meeting to support the representation.

Findings

23. The Sub-Committee has considered the representations made by the applicant and other parties and finds as follows: -
24. There have been no complaints or issues brought to the attention of the Council in relation to this premises licence since MRH have held the licence.
25. The Sub-Committee notes that no Responsible Authority has raised concerns about the variation to the application leading to them making a representation.

26. The Sub-Committee has considered the written representation that there had historically been problems of noise, litter and anti-social behaviour when the premises previously had a 24 hour licence to sell alcohol and their fear that the longer hours requested would resurrect these problems.
27. The Sub-Committee has considered whether there is a very real threat of the fears described in the representation actually occurring. Due to the absence of the representee at the hearing, the Sub-Committee is only able to attach limited weight to the representation, as the representee's views and evidence could not be tested.
28. However, the Sub-Committee was mindful that the problems which were referred to had occurred when the premises was owned by a different operator.
29. Furthermore, the Sub-Committee notes that none of the Responsible Authorities made any representations against the application; Surrey Police did not raise any concerns about the operation of the premises currently or under the licence applied for. The Sub-Committee therefore finds that there is no evidence of anti-social behaviour and other crime and disorder currently.
30. The Sub-Committee also finds there is no evidence to suggest that the variation in hours would exacerbate the issue raised in the resident's written representation of problems with litter in the area and notes the action by the store to address current litter issues through a daily litter patrol.
31. The Sub-Committee is not persuaded that there is a real threat of the fears described in the written representation occurring as a result of the proposed application.
32. The applicant has demonstrated to the Sub-Committee that MRH has a wealth of experience in running well managed premises operating 24 hour licences for sales of alcohol without incident.
33. The Sub-Committee was satisfied that robust arrangements were in place at the premises to promote the licensing objectives on the prevention of crime and disorder and prevention of public nuisance including: a suitable and efficient CCTV system as agreed with Surrey Police, keeping a refusals book, notices to customers asking them to be considerate of neighbours and staff receiving regular appropriate training.

34. The Sub-Committee was satisfied that the proposed conditions to replace those on the current licence at Annex 2 numbered (3) to (6) were more robust and easier to enforce. In relation to the removal of condition (2) in Annex 2, it was persuaded by the applicant's evidence that it was general practice for premises such as these which were open 24 hours, to be single manned which is why the shop is closed from 9pm until 6am and payments made through a night window. This was the preferred option of the police.
35. The Sub-Committee notes that the applicant had agreed to retain the condition that:
- “A sign will be erected in a prominent place at the premises asking customers to respect the neighbours and dispose of litter considerately.”
36. It also notes that the store manager is actively trying to address the litter problem by conducting a daily litter patrol.
37. The Sub-Committee noted that the applicant stated their willingness to provide contact details to the representee should he wish to discuss any problems caused by the operation of the premises licence.
38. The Sub-Committee was mindful of National Guidance that states at paragraph 10.15, ‘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.’
39. The Sub-Committee is also mindful of paragraph 16.2 of Spelthorne Borough Council's Statement of Licensing Policy:

16.2 Shops, stores and supermarkets

Shops, stores and supermarkets will generally be permitted to sell alcohol during the normal hours they are open for shopping. However, there may be very good reasons for restricting those hours. For example, a limitation on the hours that alcohol can be sold may be appropriate, following police representations, for shops known to be the focus of disorder and disturbance, or where youths gather and behave anti-socially.

40. The Sub-Committee therefore considers on the basis of the evidence that it has heard and the findings of fact that it has made, that there is no need to take further action for the promotion of the licensing objectives at these premises or depart from the Spelthorne Borough Council Statement of Licensing Policy or National Guidance.

Legal position

41. By virtue of the Licensing Act 2003 the Sub-Committee is entitled to consider on an application for a variation to a premises licence whether it should:
- Grant the application
 - Modify the conditions of the licence, by alteration, addition or omission
 - Reject the whole or part of the application

Decision

42. For the reasons stated above, the Sub-Committee confirms that the application for variation of the premises licence be granted as applied for, subject to the amendments to the proposed operating schedule agreed with Surrey Police and Councillor Sider prior to this hearing, i.e.

- 1. The extension of the hours for the sale of alcohol to 24 hours daily**
- 2. The removal of conditions numbered 1, 2, 3, 4, 5, and 6 from Annex 2 of the Premises licence**
- 3. The inclusion in Annex 2 of the conditions in boxes b) (7-9 only) and c) to e) of section 16 of the application**
- 4. The inclusion of the following condition to replace the existing condition 1 in Annex 2, and those proposed as conditions 1-6 in box (b) of the operating schedule, as agreed with Surrey Police:**

A suitable and efficient CCTV system with recording facilities will be in place at the site and will operate at all times that the premises is open for licensable activities. The Premises Licence Holder must ensure that at all times that a DPS or appointed member of staff from the premises who can operate the system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show police recent data or footage with the minimum of delay when requested. (This may involve temporarily closing the premises when there is only one member of staff at the premises). The Premises Licence Holder must also ensure that at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a readable format, either disc or VHS, to the police/local authority within 48 hours of request. The CCTV system will include a camera that covers the night pay window and is to the reasonable satisfaction of Surrey Police.

5. Alterations to the premises

Conditions

The steps to promote the licensing objectives set out in the applicant's operating schedule and agreed above will become conditions on the licence.

Conclusion

- 43. That is the decision of the Sub-Committee. A copy of this decision has been provided to all parties to the hearing within 5 days of the Sub-Committee meeting.
- 44. You have the right to appeal against this decision to the Magistrates' Court within 21 days of receipt of this decision notice.
- 45. If you decide to appeal, you will need to submit your appeal to Guildford Magistrates Court. You should allow sufficient time for your payment of the relevant appeal fee to be processed. For queries, Guildford Magistrates Court can be contacted on 01483 405 300.

Cllr J. Boughtflower
Cllr R. Chandler
Cllr Q. Edgington

Date of Decision: 20 April 2018
Date of Issue: 25 April 2018

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