

**Minutes of the Licensing Sub-Committee
16 May 2024**

Present:

Councillor S.A. Dunn (Chair)

Councillor C. Bateson and D.C. Clarke

In attendance for the applicant:

Tinashe Tapiwa Chiwakata, Applicant

In attendance for the Local Licensing Authority:

Lucy Catlyn, Principal Licensing Officer

Other parties in attendance:

Councillor Olivia Rybinski, representee

7/24 Disclosures of Interest

There were none.

8/24 To consider an application for a Premises Licence at Forbidden Fruit Restaurant and Bar, 2 New Parade, Ashford, TW15 2UF, in the light of representations

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

The Chair asked all parties present to introduce themselves. She then explained the procedure to be followed at the hearing.

The Principal Licensing Officer summarised the application which was set out in full in the report.

The hearing continued in accordance with procedure.

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 public safety.

Upon reconvening, the Chair gave the Sub-Committee 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 Premises License at Forbidden Fruit Restaurant and Bar, 2 New Parade, Ashford, TW15 2UF be granted subject to conditions, as set out in full in the attached Decision Notice and annex.

SPELTHORNE BOROUGH COUNCIL

DECISION NOTICE

in accordance with the LICENSING ACT 2003 s.39 & s.44

Licensing Sub-Committee – 16 May 2024

Application – For grant of a Premises licence for the provision of late night refreshment supply of alcohol

In respect of – Forbidden Fruit Restaurant & Bar Ltd, 2 New Parade, Ashford, Surrey, TW15 2UF

SUB-COMMITTEE DECISION WITH REASONS

Grant of application

1. This Sub-Committee has before it the following application:-
 - i The Application for a late-night refreshment and supply of alcohol premises licence.

2. The Respondent is
 - i Applicant: Forbidden Fruit Restaurant & Bar Ltd

ATTENDANCE

- j. The following people have attended the Sub-Committee hearing this morning to make representations. They are:
 - a. Responsible authorities:
 - Lucy Catlyn, Principal Licensing Officer.
 - b. Applicant
 - Mr Tinashe Tapiwa Chiwakata, Director of Forbidden Fruit Restaurant and Bar
 - c. Representations
 - Councillor Olivia Rybinski

BACKGROUND

1. This is an application for a new premises licence for the provision of late-night refreshment and supply of alcohol.
2. The Applicant describes the premises as “Forbidden Fruit is envisioned as a refined destination, seamlessly blending the elegance of fine dining with the charm of a cozy dessert shop”.
3. The applicant’s agent advises that the premises has seating for up to 24 people, but they are looking to add more in the future. The plan submitted states that the occupancy capacity is 49 people.
4. There are no representations from any of the Responsible Authorities.
5. There have been three representations from the Ward Councillor and two members of the public. These are concerned with fear of increased levels of disturbance and an increase in anti-social behaviour.
6. The Licensing Sub-Committee has heard and considered the oral representations made this morning on behalf of Forbidden Fruit Restaurant & Bar Ltd by Mr Tinashe Tapiwa Chiwakata. He stated that he would have a duty manager who would check hourly the front side and rear of the premises for any anti-social behaviour. He said the CCTV would cover the front and rear of the premises in addition to inside the premises. He was aware of the concerns raised by residents and was keen to ensure the premises operated without issue. He would amend the plan to show the 24 seated area, he was also agreeable to the proposed licence conditions provided and amended his application to be in line with the planning condition of closing at midnight.
7. The Sub-Committee has also heard oral representations from Councillor Olivia Rybinski who stated there was an increase in anti-social behaviour in the area, and there was a concern about people leaving this premises intoxicated. Cllr Rybinski also mentioned concerns regarding the use of the car park at the rear of the premises for anti-social behaviour. Tala is the only premises locally and only holds a licence until 8.00pm. There are other shops where alcohol can be purchased and taken away. Ashford is a small family orientated town, and the High Street is quiet. They took into account the written representations received from Celine James and Maria Christmas. These outlined concerns regarding a perceived increase in anti-social behaviour in people seeking a late-night alcoholic drink and issues in respect of disturbance outside the premises with people vaping or smoking. Concerns were also raised in respect of the car park area to the rear of the premises with youths congregating, causing nuisance and cars being parked and playing loud music and drinking or drug use in that area together with fly tipping. The use of the car park area is not one that can be taken into account in respect of this particular premises which only has one car park space allocated at the rear for use by the DPS.

8. The Sub-Committee has considered all of the evidence put before it, including the report prepared by the Licensing team and in doing so has taken into account the Secretary of State's Guidance issued under the Licensing Act 2003 and Spelthorne Borough Council's Statement of Licensing Policy.

The Licensing Sub-Committee is mindful of its duty to promote the licensing objectives and finds as follows:

Findings and Decision

9. The Sub-Committee considers that the licensing objective of the prevention of crime and disorder and prevention of public nuisance has been engaged.
10. The Sub-Committee weighed up its duty to uphold the licensing objectives and the evidence provided by all who made representations.

11. The Sub-Committee found that: -

- a) there was a fear of anti-social behaviour but that these particular premises could not be held responsible for the issues with youths congregating, causing nuisance and cars being parked and playing loud music and drinking or drug use in area to the rear of the premises together with fly tipping in that area.
- b) The premises would bring a benefit to the community.
- c) That the service of alcohol would be table service only and with food.
- d) There would be no standing drinking permitted.
- e) The additional conditions agreed in addition to the mandatory conditions would ensure a well run and managed premises.
- f) The premises could only accommodate 24 people (consumers) seated.
- g) The plan within the application was in error, and the applicant will submit an amended plan showing the seating area for 24 people only.
- h) That CCTV being installed on the premises to the front and rear would be within permitted development rights in respect of planning.
- i) The applicant could seek a variation if he wished to increase the seating area.

12. The Sub-Committee concludes on the basis of the evidence that it has heard and the findings of fact that it has made, that a premises licence for the provision of, late-night refreshment, Supply of Alcohol at Forbidden Fruit, 2 New Parade, Ashford, Surrey, TW15 2UF for:

The provision of late-night refreshment (indoors only):

- Saturday 23:00 to 00.00
- New Years Eve 23.00 to 00.00

Supply of alcohol (on Sales only):

- Tuesday, Wednesday Thursday 09:00 to 22:00

- Friday 09:00 to 23.00
- Saturday 09:00 to 23:30
- Sunday 09:00 to 22:00
- New Years Eve 09:00 to 23:30

The opening times applied for:

- Tuesday, Wednesday Thursday 09:00 to 22:30
- Friday 09:00 to 00:00
- Saturday 09:00 to 00:00
- Sunday 09:00 to 22:30
- New Years Eve until 00.00
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Shall be granted with the mandatory conditions and additional conditions as agreed with the applicant at the hearing, a copy of which is annexed to this decision.

Conclusion

- k. You have the right to appeal against this decision to the Magistrates' Court within 21 days of receipt of this decision notice. The relevant provisions are set out in section 181 and Schedule 5 of the Licensing Act 2003.
- l. 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.

Councillor S.A. Dunn - Chair

Councillor C. Bateson

Councillor D.C Clarke

Date of Decision: 16 May 2024

Date of Issue: 16 May 2024

Forbidden Fruit – Licensing conditions in addition to mandatory conditions.

1. The Premises Licence holder shall make sure that all staff are trained in the main principles of the Licensing Act 2003, notably the promotion of the four licensing objectives, and the specific conditions of this premises licence before being allowed to sell alcohol and document on individual staff records what was specifically covered and when this training takes place.
2. All staff (paid or unpaid) shall be trained in respect of the law relating to the sale of alcohol, acceptable forms of ID, Challenge 25 and the procedure on handling and record refusals within one week of starting work.
3. All staff (paid or unpaid) receive refresher training every six months about their responsibilities under the Licensing Act 2003 and training records will be available to police and authorised officers on reasonable request.
4. Up to date training logs are to be maintained and held on the licensed premises confirming the full name of the staff member, date of training and topics addressed during the training.
5. Training logs must to be made available to Responsible Authorities immediately upon request.
6. No member of staff (paid or unpaid) may work with the sale or supply of alcohol without having first been trained as set out in condition 2.
7. The Designated Premises Supervisor shall co-operate with reasonable requests made by authorised officers of responsible authorities under the Licensing Act 2003 to ensure the licensing objectives are not undermined.
8. The Duty Manager will patrol the front, side and rear of the premises every hour to ensure no anti social behaviour is occurring within the vicinity of the premises.
9. All on sales of alcohol shall be sold by table service only.
10. There shall be no vertical drinking at the premises.
11. A CCTV recording system shall be installed, operated and maintained.
12. The system shall incorporate a camera covering the entrance door and be capable of providing an image which is regarded as 'identification standard' of all persons entering and/or leaving the premises.
13. The CCTV system shall be in operation at the premises at all times when the premises are used and occupied for the provision of licensable activity.
14. All CCTV recordings shall be securely stored for a minimum of period of 31 days with date and time stamping.
15. A staff member at the premises who can operate the CCTV system shall be on the premises at all times when the premises are open to the public.
16. This staff member shall be able to show the Police and/or officers from the Licensing Authority recent data or footage on immediate request.
17. Signage indicating that a CCTV recording system is in operation shall be displayed prominently in the premises.

18. No alcohol shall be supplied if the CCTV equipment is inoperative for any reason.
19. A premises daily incident log shall be kept at the premises and made available on request to an authorised officer of the Council or Responsible Authorities. It will record the following: (a) all crimes reported to the venue (b) any complaints received concerning crime and disorder (c) any incidents of disorder (d) any faults in the CCTV system, (e) any refusal of the sale of alcohol (f) any visit by a relevant authority or emergency service.
20. This incident log shall be maintained and kept for a rolling period of 12 months.
21. All exit routes and public areas shall be kept unobstructed, shall have non-slippery and even surfaces, shall be free of trip hazards and shall be clearly signed.
22. The premises licence holder shall ensure that a suitable fire risk assessment and emergency plan is in place at all times and supply a copy of the plan on request.
23. Regular checks (at least weekly) and maintenance shall be carried out on all equipment, electrical installations, emergency lighting and fire alarms and equipment to ensure their continued safe operation. A written record of these checks shall be kept and made available to an authorised officer of the licensing authority or Police or Fire Officer on request.
24. An adequate and appropriate supply of first aid equipment and materials shall be available on the premises.
25. Disposal of empty bottles into any waste receptacle will not be permitted between the hours 23:00 and 7:00.
26. Arrangements shall be put in place to ensure that waste collection contractors do not collect refuse between 19:00 and 07:00.
27. Patrons smoking outside the premises shall be monitored regularly to ensure the potential for noise nuisance is controlled.
28. The premises' frontage shall be regularly monitored to keep it clean and clear of litter and inspected at least every hour. A written log of such inspections will be kept and made available to an authorised officer of the licensing authority or Police on request.
29. Prominent, clear and legible notice are displayed at all exits, requesting patrons to respect the needs of local residents and leave the premises and the area quietly.
30. No person shall be allowed to leave the premises whilst in the possession of any open drinking vessel, whether empty or containing any beverage.

Dispersal Policy

31. The management and staff of Forbidden Fruit will ensure a safe, orderly and quiet egress of the premises by their customers.
32. The management and staff of Forbidden Fruit will clear the immediate vicinity of the licensed premises at the end of the evening and make sure that all customers leave without causing disturbance or any other disorder.

33. The duty manager will be on duty to supervise the dispersal at the end of the evening and will keep a written log (incident book) of any noise, disturbance or nuisance issues that arise.
34. Any person identified as not conforming to the dispersal policy or not following instructions will be verbally warned and this will be entered in the incident book.
35. A second occurrence by this person will result in them being refused entry into the venue in the future.
36. Customers are forbidden from taking alcohol or glassware off the premises. This will be indicated by both clear signage near relevant exits and staff announcements.
37. Management and Staff on duty will have particular responsibility for ensuring that no alcohol or glassware leaves the premises.
31. The bar and any table service will stop serving alcohol 30 mins prior to closing and customers will be encouraged to leave the venue gradually over the 30 min period and not herded out when all licensable activity ceases.
32. There will be free tap water available to any customer who requires it during the 30 min period prior to closing.
33. Customers will be asked by Management and Staff to respect the neighbours and leave the venue in a quiet and responsible fashion. This will also be indicated by clear signage by relevant exits.
34. Any customers found loitering outside the premises will be asked politely to leave quietly. This will be done to ensure a swift and efficient dispersal of the area to ensure that local residents are not disturbed.
35. Customers will be encouraged to wait inside for a taxi, and, offered water while waiting.
36. Staff will be familiar with local public transport links and last times for buses, tubes and trains and will be able to advise customers prior to them leaving the venue.
37. Details of taxi services will be available to customers, either by the availability of leaflets, or business cards.
38. The venue will establish a relationship with a local taxi provider in order to provide customers leaving the venue a safe and convenient service. The taxi providers will be asked to enter the venue to collect their fares to prevent nuisance.
39. The Duty Managers contact number and email address will be displayed at the front of the premises for local residents to get in contact with any issues.
40. All incidents will be logged in writing in accordance with the venue's policies and the terms of its license.
41. The premises licence holder or the designated premises supervisor will attend every pubwatch meetings for the area to engage with other local businesses to ensure safety of the community.
42. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are the following recognised photographic identification cards: a driving licence, a passport, a military identification card or a Proof of Age card carrying a 'PASS' logo.

43. Notices advertising that the premises operates a "Challenge 25" scheme shall be displayed in a clear and prominent position at the premises entrance and also at least at one location behind the till advising customers that such a scheme is in operation.
44. All occasions when persons have been refused service shall be recorded in the premises daily incident log.
45. The premise licence holder or Designated Premises Supervisor shall ensure that all management and staff who are not personal licence holders are fully trained and briefed on the four licensing objectives and Challenge 25 and ensure they are adhered to.
46. Children under 13 must be accompanied by an adult over the age of 18 years of age.