

Licensing Sub-Committee

08/02/2022



Subject	Application to grant a Premises Licence for 4 Thurlestone Parade, High Street, Shepperton TW17 9AR		
Purpose	For determination		
Report of	Deputy Chief Executive	Ward	Shepperton Town
Contact	Lucy Catlyn (Principal Licensing Officer) (01784 444295)		

Description and Location	Mr Sokol Petriti has applied for a grant of a premises licence at 4 Thurlestone Parade, High Street, Shepperton TW17 9AR. The location plan is attached at Appendix A .
The Application	The application is to determine the grant of a premises licence for; Supply of Alcohol 12.00-23.00 Monday to Sunday The opening times applied for; 07.00-23.30 Monday to Sunday The application form is attached at Appendix B .
Representations	Relevant representations received from two other persons Letters of representation are attached at Appendix D .
Options	<ol style="list-style-type: none">1. The Sub-Committee is requested to consider the application for the grant of a premises licence on its merits.2. Having had regard to the representations, the Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. The steps are:<ul style="list-style-type: none">▪ To grant the application subject only to such conditions as are consistent with the operating schedule and the mandatory conditions; or

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| | <ul style="list-style-type: none">▪ To grant the application and modify the conditions of the licence, by alteration, addition or omission; or▪ To exclude from the scope of the licence any of the licensable activities to which the application relates; or▪ To refuse to specify a person in the licence as the premises supervisor; or▪ To reject the whole or part of the application. |
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1. Background

- 1.1 This is an application for a new premises which is described in the Premises Licence application form as a coffee shop and restaurant with the ability to seat 34 persons at any one time.
- 1.2 A plan of the premises is attached with the application form at **Appendix B**. The Premises has one till which is located on the bar.
- 1.3 The shop unit was previously called Top Tune Motor Part shop.

2. Application Summary

2.1 Licensable activities proposed

- Sale by retail of alcohol (on the premises)

2.2 The times proposed for the carrying out of licensable activities

- Supply of Alcohol 12.00 to 23.00 Monday to Sunday

2.3 The proposed opening hours of the premises

- 07.00-23.30 Monday to Sunday

2.4 Where the proposed licence is for the supply of alcohol whether these are on and/or off supplies

- The applicant has only applied for the supply of alcohol for consumption on the premises only.

2.5 The applicant details that the bar is at the front of the restaurant, alcohol to be stored in back of the restaurant in the office and on the bar which will be locked and secured. Sale of alcohol for consumption on the premises only.

2.6 The premises has a recessed open air seating area at the front the premises which is adjacent to the highway. Therefore, there is no requirement for an additional Pavement Licence for this area as it is not public highway.

2.7 The application has been consulted upon and adverts published in line with the regulations for the Licensing Act 2003. The application was advertised in the Surrey Advertiser on 24 December 2021.

- 2.8 Details of the application have been published on the Councils website.
- 2.9 The designated premises supervisor where the premises licence authorises the supply of alcohol is the same as the applicant, Sokol Petriti.
- 2.10 Sokol Petriti obtained his personal licence from The Royal Borough of Kingston and this was issued on 15 September 2008.

3. Promotion of the Licensing Objectives & conditions agreed by applicant

Box M of the application form (**Appendix B**), details the proposed steps to be taken by the applicant to promote the licensing objectives should the licence be granted. However, the Licensing authority and Surrey Police have since agreed replacement conditions for the premises licence should it be granted and these are attached at **Appendix C**.

4. Representations

4.1 Representations from Responsible Authorities

There are no representations from Responsible Authorities.

Representations from 'other persons'

Two relevant representation has been received from other persons and is attached at **Appendix D**.

- 4.2 The grounds for objection are summarised below in relation to each Licensing Objective.

Prevention of crime and disorder

- Fear of anti social behaviour

Prevention of public nuisance

- Concern over the times applied for the sale by retail of alcohol may lead to noisy entrance and exits from the premises late in the evenings, rowdy behaviour and therefore, some disturbances to local residents.
- The location is close to residential premises and there is a fear that car doors will be slammed up to midnight.

- 4.3 A copy of the representations was sent to the applicant on 7 January 2022. The applicant replied on 9 January 2022 advising they would like the Licensing Sub Committee to decide the outcome of the application. The applicant has advised that it is a restaurant with very minimum of background music and that in the summer he feels restrictions on his alcohol times would impact his business. In addition, the applicant has asked it is taken into consideration that the area where the premises is located is not a private residential area and is Shepperton High Street. A copy of the email exchange is attached at **Appendix E**.

- 4.4 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

- Parking, or other issues relating to general amenity rather than licensing objectives

5. Licensing Policy

5.1 The Sub-Committee must have regard to the Council's own Statement of Licensing Policy when determining this application. The following sections of the Council's Licensing Policy are relevant to this application and are attached at **Appendix E**:

- Paragraph 17.0 – Licensing hours
- Paragraph 25.0 – Crime and disorder
- Paragraph 25.7 – Public nuisance

6. National Guidance

6.1 The Sub-Committee must also have regard the Guidance issued in April 2018 by the Secretary of State under section 182 of the Licensing Act 2003. In particular the following chapters are relevant in the consideration of this application and are attached at **Appendix F**:

- Paragraphs 2.1 – 2.6 (Crime and disorder)
- Paragraphs 2.15 – 2.21 (Public nuisance)
- Paragraphs 9.1 – 9.10 of Chapter 9 (Determining applications)

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 the Council's own 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 In determining the application, the Sub-Committee will need to consider whether there is actual evidence of problems in relation to the licensing objectives at this premises. Where the representations are unable to provide evidence of observed problems, as in the case of a new licence application, the Sub-Committee should be convinced that there is a very real threat of the fears or the dangers described in the representations actually occurring, before applying any conditions to address such fears or dangers.

7.6 The decision made by the Sub-Committee will be subject to appeal rights to the Magistrates' Court as detailed in section 181 and Schedule 5 of the Licensing Act 2003.

8. Legal Comments

8.1 When considering an application for a grant of a new Premises Licence, the Sub-Committee shall carry out its functions with a view to taking steps it considers appropriate for promoting the licensing objectives. The licensing objectives are:

- Prevention of crime and disorder
- Public Safety
- Prevention of public nuisance
- Protection of children from harm

8.2 Members should note that each objective is of equal importance. There are no other licencing objectives and the four objectives are paramount considerations at all times.

8.3 An application for a new premises licence may be made pursuant to s.16 and s.17 of the Act, and with regard to the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005/42 and the licensing Act 2003 (Fees) Regulations 2005/79.

8.4 The Sub-Committee must ensure that all licensing decisions:

- (a) Have a direct relationship to the promotion of one or more of the four licensing objectives
- (b) Have regard to the Council's statement of licensing policy
- (c) Have regard to the Secretary of State guidance
- (d) Must not be subject to a blanket policy to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded

8.5 Where relevant representations are made, the Licensing Authority must hold a hearing to determine the application, unless all are agreed that such a hearing is unnecessary: s.18(3)(a) Licencing Act 2003.

8.6 Relevant representations are those that relate to the effect of the granting of the application on the promotion of the licensing objectives made by an interested party or responsible authority that have not been withdrawn and are not, in the opinion of the relevant licencing authority, frivolous or vexatious: s.18(7) Licensing Act 2003.

8.7 The Sub-Committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested parties must live within the vicinity of the premises. All applications will be decided on a case by case basis.

8.8 Following a hearing, the Sub-Committee must consider all relevant representations, and having taken into account the promotion of the licensing objectives, under s.18(3)(b) and (4) Licensing Act 2003, a decision can be taken:- i.

- To grant the licence, subject to the mandatory conditions and conditions consistent with the operating schedule;
 - To impose additional relevant conditions to such an extent as is considered necessary for the promotion of the licensing objectives;
 - To exclude any of the licensable activities to which the application relates;
 - To amend the times for all or some of the licensable activities;
 - To refuse to specify a person in the licence as the premises supervisor;
 - To reject the application.
- 8.9 Conditions will not be necessary if they duplicate a current statutory requirement. The Licencing Authority may therefore only impose such conditions that are necessary to promote the licensing objectives arising out of the consideration of the representations.
- 8.10 If the Sub-Committee determines that it is necessary to modify the conditions, to refuse the application for a Premises Licence application, it must give reasons for its decision.
- 8.11 Parties to the hearing, including Interested parties and the Applicant have the right to appeal the decision of the Licensing Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the Licensing Authority of the decision to be appealed against.

Appendices:

Appendix A – Location Plan

Appendix B – Application

Appendix C – Agreed conditions with Licensing Authority and Surrey Police

Appendix D – Representations from other persons

Appendix E – Email exchange with applicant

Appendix F - Relevant sections of Spelthorne Borough Council's Statement of Licensing Policy 2019 – 2024, paragraphs 17, 25.0 and 25.7

Appendix G – National Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003:

- Paragraphs 2.1 – 2.6 (Crime and disorder)
- Paragraphs 2.15 – 2.21 (Public nuisance)
- Paragraphs 9.31 – 9.44 of Chapter 9 (Determining applications)
- Paragraph 10.10 – Proportionality
- Paragraphs 10.13 – 10.15 – Hours of trading
- Paragraphs 14.51-14.52 – Licensing Hours