

# Licensing Sub-Committee

04/04/2022



<b>Subject</b>	Application for a <b>review</b> of the Premises Licence at Sunbury Food and Wine		
<b>Purpose</b>	For determination		
<b>Report of</b>	Deputy Chief Executive	Ward	Sunbury Common
<b>Contact</b>	Lucy Catlyn (Principal Licensing Officer) (01784 444295)		

<b>Description and Location</b>	<p>A Newsagent in a local shopping parade with residential flats above it.</p> <p>On 14<sup>th</sup> February 2022, Trading Standards, a Responsible Authority under the Licensing Act 2003 applied to the Licensing Authority to review the premises licence.</p> <p>Plan at <b>Appendix A</b></p>
<b>The Application</b>	<p>The application is to review the Premises Licence under the Licensing Objectives of the prevention of crime and disorder and the protection of children from harm. The application was made by Amanda Poole, Assistant Head of Trading Standards. The Applicant for Review requests the revocation of the Premises Licence.</p> <p>The current licence is attached at <b>Appendix B</b> and the current plan is attached at <b>Appendix C</b>. The review application is attached at <b>Appendix D</b>.</p>
<b>Representations</b>	<p>Relevant representations in support of the review have been received from Surrey Police a Responsible Authority under the Licensing Act 2003.</p> <p>Letters of representation are attached at <b>Appendix E</b>.</p>
<b>Options</b>	<p>1. 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:</p> <ul style="list-style-type: none"><li>• <b>Modify the conditions</b></li><li>• <b>Exclude a licensable activity</b></li><li>• <b>Remove the Designated Premises Supervisor</b></li><li>• <b>Suspend the licence for up to 3 months</b></li><li>• <b>Revoke the licence</b></li></ul>

	<ul style="list-style-type: none"> <li>• <b>No action required</b></li> </ul> <p>and for this purpose, the conditions of the Premises Licence are modified if any of them is altered or omitted or any new condition is added.</p>
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## 1. Background

- 1.1 The licence holder and the Designated Premises Supervisor is Mandeep Singh Soni.
- 1.2 Sunbury food and wine was first granted a premises licence 07 March 2006. An application to transfer the licence and change the Designated Premises Supervisor (DPS) was made on 10 November 2010 to Mr Mandeep Singh Soni.
- 1.3 The current premises licence in respect of Sunbury Food and Wine allows the sale by retail of alcohol on weekdays 09.00 to 22.00 and on Sundays 10.00 to 22.00 for the consumption off the premises. The opening hours of the premises are the same.

## 2. Review Application

- 2.1 The Sub-Committee is asked to consider and determine an application submitted on 14 February 2022 from Trading Standards for the review of a Premise Licence for Sunbury Food and Wine held by Mr Mandeep Singh Soni. The application for the review of the Premises Licence is attached is at **Appendix D**.
- 2.2 The Application for the Review of the Premise Licence is made on the of prevention of crime and disorder and protection of children from harm.
- 2.3 The Applicant for a Review is required to forward copies of the application to the Responsible Authorities with a view to any of these Responsible Authorities making a supporting representation if deemed appropriate.
- 2.4 Trading Standards served the Application for Review on the Premises Licence Holder in accordance with the Licensing Act 2003.
- 2.5 The Notice of Review was displayed at the licensed premises between 15<sup>th</sup> February 2022 and 14<sup>th</sup> March 2022 and in the reception area of the Council Offices and the notice board outside the Civic offices as well as the Council's website. Several checks have been made by Licensing Officers at the premises to ensure the required notice is on display at all times.

## 2.6 Chronology of grounds given for review

On the 19 September 2020 Trading Standards and Surrey police carried out a test purchasing operation.

- Two test purchasers, both under the age of 18 years, were sold a box of NOS cannisters and balloons and charged £21.99.
- A search and behind the counter revealed various counterfeit tobacco and alcohol which was seized.

- On the 23 September 2020 Mr Soni voluntarily attended interview.
- On the 19 January 2022 Mr Soni was sentenced, following pleading guilty to six counts including one count under the Psychoactive Substances Act 2016, two counts under the Trademarks Act 1994, two counts under the Tobacco and Related Products Regulations 2016 and one count under the Standardised Packaging of Tobacco Products Regulations 2015.
- The Magistrates considered the offence under the Psychoactive Substances Act to be the most serious and looked at the offending in its totality when considering sentence. Mr Soni was sentenced as follows: Individual Community order for 12 months to complete a period of unpaid work for 160 hours — this covers all the counts. Victim surcharge £95. And also faced mirror charges for his company, GIM Enterprises Limited to which all guilty pleas were also entered. Company — Fine -£100 (reduced because of limited operating profit of the company) | Victim surcharge £34.

### **3. Promotion of the Licensing Objectives**

### **4. Representations**

#### **4.1 i) Representations from Responsible Authorities**

A Relevant representation in support of the review has been received from Surrey Police and is attached at **Appendix E**. The representation comprises an expert witness statement from Emma Gower.

No further representations have been received from any other Responsible Authorities or Other Persons.

### **5. Licensing Policy**

#### **5.1 The following sections of the Council's Licensing Policy are relevant. These are attached at **Appendix F**.**

- 3.0 Licensing Objectives and Licensable Activities
- 8.0 Conditions
- 9.0 Administration and Decision Making
- 19.0 The Review Process
- 25.0 Crime and Disorder & 25.1 Reviews
- 25.8 Protection of Children from Harm, 25.8.3 Reviews in connection with protection of children from harm

### **6. National Guidance**

#### **6.1 The relevant section from the National Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 on determination of a Review is attached at **Appendix G**.**

## **7. Legal Comments**

- 7.1 Following receipt of a review application the Licensing Authority must hold a hearing to consider it and any relevant representations. At the hearing, the Sub-committee must, having regard to the application and any relevant representations, take such of the steps following steps (if any) as it considers appropriate for the promotion of the licensing objectives:

- modify the conditions of the licence.
- exclude a licensable activity from the scope of the licence.
- remove the designated premises supervisor.
- suspend the licence for a period not exceeding three months; and/or
- revoke the licence

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

- 7.2 The Sub-Committee must also have regard to Spelthorne Borough Council's Statement of Licensing and the Secretary of State's Guidance issued under the Licensing Act 2003 when deciding what action, if any, to instigate. The terms of the Statement of Licensing Policy and Guidance are highly persuasive but are not binding on the Licensing Sub-Committee. The Sub-Committee may depart from the guidance contained in the Statement of Licensing Policy and or Guidance if it considers there are clear and justifiable reasons to do so. Full reasons must be given if this is the case.
- 7.3 The Sub-Committee can only consider matters within the application or that have been raised through relevant representations from and each application will be decided on a case-to-case basis.
- 7.4 The Sub-Committee may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In deciding what remedial action, if any, it should take the Sub-Committee must direct its mind to the causes or concerns which the application and representations identify. The remedial action should generally be directed at these causes or concerns and should always ensure that any response is necessary and proportionate.
- 7.5 Members are referred to the Secretary of State's Guidance on conditions, specifically paragraph 1.16 and chapter 10 which state that licensing conditions should be practical and enforceable, tailored to the size, type, location and characteristics and activities taking place at the premises. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions will not be necessary if they duplicate a current statutory requirement. Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.
- 7.6 The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.
- 7.7 Where the Sub-Committee determines an application for review it must provide written notice and reasons for its decision.
- 7.8 The licence holder, Applicant for Review or any party that made relevant representations 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 in writing by the Licensing Authority of its decision.

**Appendices:**

**Appendix A – Location Plan**

**Appendix B – Current Licence**

**Appendix C – Current Plan**

**Appendix D – Review Application with statements and exhibits**

**Appendix E – Representations from responsible authorities**

**Appendix F – Extracts from Council's Statement of Licensing Policy**

**Appendix G – Extract from National Guidance on Reviews**