

Licensing Sub-Committee

27 April 2023



Title	Application for a Premises Licence Applicant: Royale Grill & Dessert Ltd (CRN 14553974) Premises: "Royal Grill," 98 Windmill Road, Sunbury-on-Thames, TW16 7HB
Purpose of the report	For Determination
Report Author	Laura McCulloch (Licensing Enforcement Officer) (01784 446450)
Ward(s) Affected	Laleham and Shepperton Green

Description and Location	<p>Sumayrah Rahman, the sole director of Royale Grill & Dessert Ltd has applied for a grant of a premises licence for the provision of late-night refreshment.</p> <p>"Royal Grill" is located at 98 Windmill Road, Sunbury-on-Thames, TW16 7HB. The restaurant currently offers an eat-in and takeaway service. Alcohol is not sold at the premises.</p> <p>The location plan is attached at Appendix A.</p>
The Application	<p>The application is to determine the grant of a premises licence for:</p> <p>The provision of late-night refreshment 2300hrs till 0200hrs Monday to Sunday</p> <p>The opening times applied for. 1200hrs – 0200hrs Monday to Sunday</p> <p><u>Note:</u> 1200hrs – 2300hrs Eat in, takeaway & delivery 2300hrs – 0200hrs Takeaway & delivery only</p> <p><u>Further Note:</u> The Applicant is not seeking permission to sell alcohol at the premises.</p>

	The application form is attached at Appendix B . The licensable area plan is attached at Appendix C .
Representations	<p>Relevant representations have been received from two 'other persons'.</p> <p>No relevant representations have been received from any of the relevant authorities.</p> <p>The representations are attached at Appendix E.</p>
Options	<p>1. The Sub-Committee is requested to consider the application for the grant of a premises licence for the provision of late-night refreshment on its merits.</p> <p>2. Having had regard to the representation, the Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. The options are:</p> <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 • To grant the application and modify the conditions of the licence, by alteration, addition, or omission; or • To reject the application.

1. Summary of the report

- 1.1 This is an application for a new premises licence for the provision of late-night refreshment for premises which is described in the Premises licence application form as a restaurant.
- 1.2 A plan of the premises is attached at **Appendix C**.
- 1.3 This restaurant is currently being run as an eat in and takeaway service. The opening hours are:

Monday – Wednesday 1200hrs - 2230hrs
Thursday - Sunday 1200hrs - 2300hrs

2. Application Summary

- 2.1 **Licensable activities proposed.**
 - Late night refreshment
- 2.2 **The times proposed for the carrying out of licensable activities.**
 - 2300hrs - 0200hrs Monday to Sunday, during these hours only a takeaway service is offered.

2.3 **The proposed opening hours of the premises**

- 1200hrs - 0200hrs Monday to Sunday

2.4 There are no other premises with similar opening times in the vicinity of Windmill Road or Sunbury.

2.5 The Applicant details in the submitted plan that the only areas they wish to be licenced are the till/counter area to the front and the kitchen area to the rear.

2.6 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 10 March 2023.

2.7 Details of the application have been published on the Council's website.

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

3.1 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.

3.2 However, the Licensing Authority and the Applicant have since agreed replacement conditions for the premises licence should it be granted, and these are attached at **Appendix D**.
The Applicant initially agreed to all but one of the conditions proposed by the Licensing Authority. The condition which was in contention is:

"Customers are to place orders electronically or by phone after 2300hrs, this needs to be in place to mitigate the risk people are sitting inside for long periods of time or outside disturbing residents."

The Applicant's reasoning for rejecting the condition was that it felt that not all customers wish to place orders by electronic means and stated:

"Condition no 2 is not acceptable, every single customer cannot or don't want to place their order electronically. 90% orders will be electronically but not 100%, if we force our customers to put their orders online electronically we will be losing customers"

The Licensing Authority ultimately agreed to take this condition out and accordingly, as of 14 March 2023 the parties now have a set of agreed conditions.

3.3 Environmental Heath have agreed conditions with the applicant in the 8 March 2023, set out in **Appendix D**.

3.4 Neither the Licensing, Planning nor the Environmental Health teams have received historic complaints about the premises.

4. **Representations**

4.1 **Representations from Responsible Authorities**

4.2 There are no representations from any of the Responsible Authorities.

4.3 **Representations from ‘other persons’**

4.4 Two relevant representations have been received and are attached at **Appendix E**.

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

Prevention of public nuisance

- Fear that the extension of hours will make the noise from customers or delivery drivers worse for residents.

Prevention of crime and disorder

- Increase in anti-social behaviour

4.6 A copy of the representations received were sent to the Applicant on 24 March 2023. The Applicant's response to this was to ask for extra time to arrange for legal representation at the hearing. The Applicant's legal representative subsequently contacted the representees in response to their representations. The response to the representees is annexed at **Appendix F**.

4.7 The representees' response to this is annexed under **Appendix G**. Neither of the representees were willing to withdraw their representations.

4.8 On the 5 April 2023, one of the representee's submitted a further representation concerning customer seating outside the premises. This has been investigated and the seating appears to be located on private land which is not owned by Surrey County Council therefore would not be licensable. There may be planning considerations which are a separate matter, not for consideration by the Licensing Sub-Committee. See **Appendix H** and the Surrey County Council Highways Map in **Appendix I**.

4.9 To date there has been no previous complaints received by the Licensing Team prior to the application regarding the Royal Grill or its operation. Environmental Health and Planning have also confirmed the same of their departments.

4.10 Issues which are not relevant to the licensing objectives and cannot be considered by a Licensing Sub-Committee:

- Objections based on the public's need, or lack of need for a late-night takeaway service.
- Parking, or other issues relating to general amenity rather than licensing objectives.
- The presence of seating outside the front of the premises, this itself is not a licensable activity under Pavement Licencing as it is not located on the public highway.

- The presence of a skip in front of the premises

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 J**:

- 17.0 Licensing Hours
- 17.1 General
- 17.3 Late night takeaways
- 25.7 Public Nuisance
- 25.7.1 Noise

6. National Guidance

6.1 The Sub-Committee must also have regard to the revised Guidance issued in December 2022 by the Secretary of State under section 182 of the Licensing Act 2003. The following chapters are relevant in the consideration of this application and are attached at **Appendix K**:

- Paragraphs 2.1 – 2.6 Crime and Disorder
- Paragraphs 2.15 – 2.21 Public Nuisance
- Paragraphs 3.1 – 3.2 Licensable activities
- Paragraphs 3.12 – 3.20 – Late night refreshment
- Paragraphs 9.1 – 9.10 Determining Applications
- Paragraphs 9.31 – 9.41 Hearings
- Paragraphs 9.42 – 9.44 Determining actions that are appropriate for the promotion of the licensing objectives.
- Paragraphs 10.13 – 10.15 Hours of trading
- Paragraphs 14.51 – 14.52 Licensing hours

7. Making a decision

7.1 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

7.2 The legal framework from which licensing decisions must be made, consists of the Licensing Act 2003 and regulations, the national guidance issued under section 182 of the Licensing Act 2003, case law, and the Council's own Statement of Licensing Policy.

- 7.3 The Sub-Committee must consider the application, relevant representations, and evidence provided by the parties at the hearing and within the report documentation.
- 7.4 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.
- 7.5 The Sub-Committee must give reasons for its decision.
- 7.6 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.
- 7.7 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.
- 7.8 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.
- 7.9 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.

Appendices:

Appendix A – Location Plan

Appendix B – Application

Appendix C - Plan

Appendix D – Proposed and Agreed conditions with Licensing Authority

Appendix E – Representations from other persons

Appendix F – Documents lodged.

Appendix G – Replies to documents lodged.

Appendix H – Email regarding seating

Appendix I – Surrey County Council map of public highway.

Appendix J– Relevant sections of Spelthorne Borough Council's Statement of Licensing Policy 2019-2024, paragraphs 17.1,17.2,17.3, 25.7,25.7.1

Appendix K – National Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 revised guidance December 2022: 2.15-2.21, 3.1,3.2, 3.12-3.20, 9.1 -9.10, 9.31-44. 10.13-10.15, 14.51, 14.52