

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

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