

10 July 2024



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| <b>Title</b>                 | Application for a Premises Licence<br>Applicant: Jasvinder Singh Jolly<br>Premises: “Kesari Kebab, 12 Woodlands Parade, Ashford TW15 1QD” |
| <b>Purpose of the report</b> | For Determination   |
| <b>Report Author</b>         | Lucy Catlyn (Principal Licensing Officer 01784 444295)  |
| <b>Ward(s) Affected</b>      | Ashford Common  |

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| <b>Description and Location</b> | Jasvinder Singh Jolly has applied for a grant of a premises licence for the Supply of Alcohol.<br><br>“Kesari Kebab” is located at 12 Woodlands Parade, Ashford TW15 1QD”.<br><br>The location plan is attached at <b>Appendix A</b> .  |
| <b>The Application</b>          | The application is to determine the grant of a premises licence for:<br><br><ul style="list-style-type: none"> <li>• Supply of alcohol (on and off sales only) Monday-Sunday 11.00-23.00</li> <li>• The opening times applied for Monday-Sunday 11.00-23.30</li> </ul><br>The application form is attached at <b>Appendix B</b> . The licensable area plan is attached at <b>Appendix C</b> . |
| <b>Representations</b>          | Relevant representations have been received from:<br><br><ul style="list-style-type: none"> <li>• 10 from ‘other persons’.</li> </ul><br>The representations are attached at <b>Appendix D</b> .  |
| <b>Options</b>                  | 1. The Sub-Committee is requested to consider the application for the grant of a premises licence its merits.   |

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|  | <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.</p> <p>The options are:</p> <ul style="list-style-type: none"> <li>• <b>To grant the application subject only to such conditions as are consistent with the operating schedule and the mandatory conditions; or</b></li> <li>• <b>To grant the application and modify the conditions of the licence, by alteration, addition, or omission; or</b></li> <li>• <b>To reject the application.</b></li> </ul> |
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## 1. Summary of the report

1.1 This is an application for a new premises licence for supply of alcohol.

1.2 A plan of the premises is attached at **Appendix C**.

## 2. Application Summary

2.1 The premises licence application form has been amended from the original application submitted in response to representations from 'other persons'. The final application which is attached at **Appendix B** describes the premises as: "Indian Restaurant".

2.2 When the Licensing Authority visited the premises on 6 June 2024 we were advised they were intending to use the premises for occasional Indian wedding celebrations.

### 2.3 Licensable activities proposed.

- Supply of Alcohol

### 2.4 The times proposed for the carrying out of licensable activities.

Supply of alcohol (on and off only):

- Monday-Sunday 11.00-23.00

### 2.5 The proposed opening hours of the premises

- Monday-Sunday 11.00-23.30

2.6 Below are the timings for other licensed premises in the same postcode:

|   |  |  |
|---|--|--|
| Londis<br>1 Woodlands<br>Parade,<br>Ashford TW15<br>1QD | Sale of Alcohol every day from<br>06:00 until 00:00<br><br>(Corner shop for OFF sales<br>only) | 177 foot distance from<br>applicant premises |
|---|--|--|

2.7 There are other premises within the parade of shops however they are not licensed, these include:

| Name                    | ADDRESS               | Opening times                                    |
|-------------------------|-----------------------|--|
| Boots                   | 3 Woodlands parade    | Mon -Sat 9am 5pm Sunday closed                   |
| Londis                  | 1 Woodlands parade    | Everyday 6am -10pm                               |
| Tom Harris diy Supplies | 9-10 Woodlands parade | Mon -Sat 8.30am- 5.30pm Sunday 9.30 – 1pm        |
| Tanning Studio          | 8 Woodlands parade    | Mon -Fri 9.30am-7pm Sat 9.30am -6pm Sun 10am-2pm |
| Dragon Inn              | 7 Woodlands parade    | Tue- Sun 4.30pm-11pm Monday closed               |
| Taylor Trims            | 5 Woodlands parade    | Tue -Sat 9am-5pm Sun and Mon closed              |
| J C Glass               | 11 Woodlands parade   | Mon -Fri 9am-5pm Sat 9.30am-12.30 pm Sun Closed  |
| Pizza hut               | 6 Woodlands parade    | Everyday 11am - 11pm                             |
| Jalsha Takeaway         | 2 Woodlands parade    | Mon- Sat 5.30pm-10.30pm Sun 6pm-10.30 pm         |
| Xmas tree shop          | 4 Woodlands parade    | Maybe seasonal                                   |

2.8 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 07 June 2024.

2.9 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. The applicant has agreed amended condition (which will replace box M):

1. The premise license holder shall ensure that CCTV camera and recorders are installed at the premises and are of a standard acceptable to and approved by the police.
2. The system shall be maintained in good working order and working at all times, be fully operational covering both internal and external areas of the premises to which the public have access. All images should be stored for a minimum of 31 days.

3. The CCTV views are not to be obstructed, at least one CCTV camera is to be placed near to the exit in order to capture clear facial images of all patrons leaving the premises.
  4. A suitable trained staff member will be able to show and provide police or council licensing officers recent data footage with the minimum delay when requested.
  5. All staff employed at the premises will have UK right to work status checked, once passed that stage they shall be offered employment. Right to work checks to be kept at the premises at all times and be available immediately upon request to Responsible Authorities.
  6. All on sales of alcohol must be made with a substantial eat in meal.
  7. All off sales must be ancillary to a takeaway meal.
  8. No open vessels to be taken outside the curtilage of the premises at any time.
  9. At least 1 member of staff shall have a Level 2 Food Safety qualification.
  10. Notice displayed asking customers to leave quietly from premises also customers will be told in person to leave quietly and not to disturb the local neighbourhood
  11. A challenge 25 policy will be in force, where any person looking under the age of 25 shall be asked to prove their age when attempting to purchase alcohol and signs to this effect will be displayed at the premises. Challenge 25 posters displayed where alcohol is sold.
  12. The only acceptable ID will be those with photographic identification documents, including passport, photo-card, driving license or proof of age card bearing the PASS hologram.
  13. An refusal book (electronic or paper) shall be kept at the premises and record of refusals will be made. This must be made available for inspection on request to a Responsible Authority.
  14. The Premises Licence Holder will ensure that staff are trained in respect to the Licensing Act 2003 legislation and underage sales prevention. Refresher training will be carried out yearly. Records will be made available to a Responsible Authority on request immediately.
  15. A sign stating "No proof of age – No sale" shall be displayed at the point of sale.
- 3.2 In response to Representations from 'other persons' the applicant has amended their licensable and opening hours from the original application submitted.

#### **4. Representations**

#### 4.1 **Representations from Responsible Authorities**

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

4.3 On 18 April 2024 the Licensing Authority contacted the agent to arrange a meeting at the premises. Concerns were raised by the Licensing Authority in respect of the Licensing Objectives regarding the application that was submitted at that time due to the timings proposed. In addition, clarification on the conditions offered. Following an amended application being received reducing licensable hours and removing late night refreshment and regulated entertainment the Licensing Authority have not submitted a representation.

#### 4.4 **Representations from 'other persons'**

4.5 10 relevant representation have been received and are attached at **Appendix D**.

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

##### **Prevention of public nuisance**

- Fear of increased levels of disturbance from noise and visitors.

##### **Prevention of crime and disorder**

- Increase in anti-social behaviour
- Fear that alcohol will bring in trouble
- Serving of alcohol is too late

4.7 An amended application was submitted by the agent on 12 June 2024 and this was circulated to the Responsible Authorities and placed on the Council website.

4.8 The Licensing Authority spoke to the agent on the telephone on 13 June 2024 to advise of the representations following an amended application. However, they would like to proceed to a hearing.

4.9 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
- Anti-social behaviour beyond the control of the licensee

#### 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**:

- 16.1 - 16.6 Promoting the Four Licensing Objectives
- 16.7 - 16.23 Prevention of Crime and Disorder

- 16.31 - 16.40 Prevention of Public Nuisance

## **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 F**:

- Paragraphs 2.1 – 2.7 Crime and Disorder
- Paragraphs 2.21 – 2.27 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 9.32 – 9.41 Hearings
- Paragraphs 9.42 – 9.44 Determining actions that are appropriate for the promotion of the licensing objectives.
- Paragraphs 10.1 – 10.13 Conditions attached to premises licences and club premises certificates

## **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** – Representations from other persons

**Appendix E – Relevant sections of Spelthorne Borough Council's Statement of Licensing Policy 2024-2029, paragraphs**

- 16.1 - 16.6 Promoting the Four Licensing Objectives
- 16.7 - 16.23 Prevention of Crime and Disorder
- 16.31 - 16.40 Prevention of Public Nuisance

**Appendix F**– National Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 revised guidance December 2023:

- Paragraphs 2.1 – 2.7 Crime and Disorder
- Paragraphs 2.21 – 2.27 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 9.32 – 9.41 Hearings
- Paragraphs 9.42 – 9.44 Determining actions that are appropriate for the promotion of the licensing objectives.
- Paragraphs 10.1 – 10.13 Conditions attached to premises licences and club premises certificates