

## **GRANT OF PREMISES LICENCE – B & M STORE, 78-80 HIGH STREET, EPSOM KT19 8BA**

<b>Head of Service:</b>	Rod Brown, Head of Housing & Community
<b>Wards affected:</b>	Town Ward;
<b>Appendices (attached):</b>	Appendix 1:- Application for a premises licence Appendix 2:- Plan attached to application Appendix 3:- Redacted copy of representations Appendix 4:- Location Map Appendix 5:- Mandatory Licence Conditions

### **Summary**

The Licensing (Hearing) Sub-Committee (“the Sub-Committee”) is being asked to determine an application for a premises licence made under the Licensing Act 2003.

### **Recommendation (s)**

#### **The Sub-Committee is asked to:**

**Have regard to the relevant representations made during the consultation period, and to take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. The steps are:**

- **To grant the licence as applied for**
- **To impose additional conditions on the licence which are appropriate for the promotion of the licensing objectives, proportionate and which deal with the concerns of those making representations; or**
- **To exclude any of the licensable activities from the scope of the licence; or**
- **To refuse to specify a person as the premises supervisor; or**
- **To reject the application.**

## **1 Background**

- 1.1 The supply of alcohol is a licensable activity under the Licensing Act 2003. Authorisation from the Council, in its role as the licensing authority, is required, in order to carry on the activity at a premises within the borough.
- 1.2 Under the scheme of delegation adopted by the Council the Sub-Committee is responsible for the exercise of many of the functions of the Council as a licensing authority, including determination of applications where representations have been received.

# Licensing (Hearing) Sub-Committee

## 12 February 2024

- 1.3 The Council may dispense with holding a hearing if the applicant and all persons who made valid representations agree that such a hearing is unnecessary and give notice to the authority to that effect.

### **2 Application**

- 2.1 On 21 December 2023 B & M Retail Limited (“The Applicant”) applied for a premises licence for the premises known as B & M Store 78-80 High Street, Epsom KT19 8BA to supply alcohol for consumption off the premises from 07:00 to 23:00 every day. A copy of the application is attached at Appendix 1, and a copy of the plan of the premises provided is attached at Appendix 2.
- 2.2 All applications for new Premises Licences must be advertised by the display of a notice at the premises and by a public notice in the local newspaper. The licensing department has determined that this application complies with the public notice requirements of the Licensing Act 2003.

### **3 Representations**

- 3.1 The Council received two relevant representations detailed in Appendix 3.
- 3.2 No representations from any responsible authority were received.
- 3.3 A location plan showing the local area is attached at Appendix 4.

### **4 Conditions**

- 4.1 If granted the licence would be subject to the mandatory conditions as attached at Appendix 5.
- 4.2 If granted and unless modified by the Sub-Committee the licence would be subject to the conditions consistent with Operating Schedule as set out in section M of the application (Appendix 1).

### **5 General principles to be followed**

- 5.1 When determining applications, the Sub-Committee is required to carry out its functions with a view to promoting the licensing objectives, which are:
  - The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm

# Licensing (Hearing) Sub-Committee

## 12 February 2024

- 5.2 In considering the licensing objections the Council must have regard to its statement of licensing policy, and to the statutory guidance issued under section 182 Licensing Act 2003.

### **6 Policy Considerations**

- 6.1 A copy of the Council's Statement of Licensing Policy (December 2018) has been sent to the Applicant and Interested Parties together with this report. The Sub-Committee will note there are no policy presumptions against the grant of the licence.
- 6.2 Section 4 of the Licensing Act 2003 stresses that in carrying out its functions, a licensing authority must "have regard to" guidance issued by the Secretary of State under Section 182. This implies looking at the guidance, factoring in its relevance and/or weight, if any, as those matters appear to the licensing authority. Paragraph 9.4 to 9.9 of this guidance may provide assistance to members of the Sub-Committee in considering whether the representation are relevant, vexatious or frivolous representations.

### **7 Legal Implications**

- 7.1 Decisions on licensing matters engage issues of human rights, in particular, Article 1 of the First Protocol, the peaceful enjoyment of possessions, Article 6, the right to a fair hearing, and Article 8, respect for private and family life. However, interference with Convention rights is permitted where lawful and necessary in the interests of public safety, the prevention of disorder or crime, the protection of health and morals or for the protection of the rights and freedoms of others.
- 7.2 Due regard must also be had to the public sector equality duty enshrined in Section 149 of the Equality Act 2010, which aims to eliminate unlawful discrimination, having regard to the nine protected characteristics. The nine protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.3 Applicants may appeal to the magistrates court if the licensing authority has rejected their application for a premises licence. If a licence is granted, the licence holder may appeal against the imposition of conditions on that licence, the exclusion of a licensable activity or refusal to specify an individual as supervisor. Those who made relevant representations during the course of an application may appeal against the decision to grant a licence.
- 7.4 Appeal to the Magistrates Court who will hear the matter afresh and will only overturn a licensing authorities decision if it thinks it is wrong. This reinforces the importance of well drafted reasons for the decision as the magistrates court is more likely to uphold a well drafted set of reasons.

# Licensing (Hearing) Sub-Committee

## 12 February 2024

### 7.5 **Legal Officer's comments:**

The Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

1. Grant the licence as asked.
2. Modify the conditions of the licence, by altering or omitting or adding to them.
3. Reject the whole or part of the application.
4. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities.

The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

## 8 **Background papers**

8.1 The documents referred to in compiling this report are as follows:

### **Previous reports:**

- None

### **Other papers:**

- Code of Conduct and Practice in Licensing Procedures and Hearings
- Statement of Licensing Policy, dated 11 December 2018
- Guidance Issued under Section 182 of the Licensing Act 2003  
<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>