

**LICENSING ACT 2003 - VARIATION TO PREMISES LICENCE  
MINIATURE, 11-13 UPPER HIGH STREET, EPSOM SURREY**

<b>Head of Service:</b>	Rod Brown, Head of Housing & Community
<b>Wards affected:</b>	Town Ward;
<b>Appendices (attached):</b>	Appendix 1:-Variation to Premises Licence Application form Appendix 2:- Operational Plan that accompanied the Application form Appendix 3:- Plans attached to Application form; New Basement Bar Miniature Restaurant and Mono Lounge Appendix 4: Pre Application advice from Environmental Health Appendix 5:- Copy of valid representation by Environmental Health Appendix 6:- Redacted copy of valid representation by Surrey Police Appendix 7:- Redacted copy of valid representation by local resident Appendix 8:- Current Premises Licence Appendix 9:- Current Premises Licence plan

**Summary**

The Licensing (Hearing) Sub-Committee (“the Sub-Committee”) is being asked to determine a variation application made under the Licensing Act 2003

**Recommendation (s)**

**The Council being satisfied that the application is made in accordance with the Licensing Act 2003 the Sub Committee is now asked to:**

- (1) Hold a hearing to determine the variation application for a premises licence under the Licensing Act 2003, unless all relevant persons agree that a hearing is unnecessary.**
- (2) Grant the application and modify the conditions of the licence as is necessary, or alternatively, reject the whole or part of the application.**

# Licensing (Hearing) Sub-Committee

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### **1 Reason for Recommendation**

- 1.1 To determine the application for a premises licence at a hearing pursuant to section 35(3) of the Licensing Act 2003. The Council, the applicant and all persons who made valid representations may agree to dispense with the hearing provided notice is given in accordance with The Licensing Act 2003 (Hearings) Regulations 2005 regulation 9.

### **2 Background**

- 2.1 The sale of alcohol and provision of regulated entertainment, are licensable activities under the Licensing Act 2003. Authorisation from the Council, in its role as the licensing authority, is required in order to carry on any of these activities at premises within the borough.
- 2.2 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.
- 2.3 On 6 April 2021 Morteza Derayzadeh (“The Applicant”) applied for a variation of their premises licence known as Miniature, 11-13 Upper High Street, Epsom, Surrey. KT17 4QY.

### **3 General principles to be followed**

- 3.1 The statutory framework for varying premises licences protects the community by allowing responsible authorities and neighbours and occupiers of local premises, including residents, businesses and community groups, to make representations about an application.
- 3.2 When determining applications, the Sub-Committee recognises the Council as the licensing authority is required to carryout its functions with a view 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.
- 3.3 In considering the licensing objections the Council must have regard to its statement of licensing policy, and to the statutory guidance (Revised Guidance April 2018) issued under section 182 of the Licensing Act 2003.
- 3.4 The procedure and information on hearings can be found at 9.31 ff of that Guidance.

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### 4 Options open to the Sub-Committee

- 4.1 The Sub-Committee in determining the application will consider the steps set out in section 35(4) of the Licensing Act 2003.
- 4.2 The Sub-Committee will decide whether to vary the licence (imposing all mandatory conditions) in the terms set out in the application or take any of the following steps before varying the licence:
  - 4.2.1 vary and grant the licence with such modifications to the conditions it considers necessary for the promotion of the licensing objectives, which can include making the licence subject to different conditions in respect of different parts of the premises or different licensable activities;
  - 4.2.2 reject the whole or part of the application; to vary the licence.

### 5 Current Position

- 5.1 The licence authorises the carrying out of licensable activities for Miniature, 11-13 Upper High Street, Epsom, Surrey KT17 4QY as follows:

Retail Sale of Alcohol

11.00 hours until 23.00 hours every day.

Provision of Regulated Entertainment; Recorded Music

11.00 hours until 23.00 hours every day.

For all Licensable Activities

New Years Eve and Valentines Day until 01.00 hours

20 until 23 March Persian New Year until 01.00 hours

The opening hours of the premises

11.00 hours until 23.20 hours every day

New Years Eve and Valentines Day until 01.00 hours

20 until 23 March Persian New Year until 01.00 hours

This is attached as Appendices 8 and 9.

### 6 Details of the Application

- 6.1 On 6 April 2021 the Applicant submitted an application to vary the current premises licence. This is detailed and attached as Appendix 1. The Applicant also submitted an Operational Plan. This is attached as Appendix 2. The plan submitted with the application is attached as Appendix 3.

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- 6.2 The Variation application was to include an area at the back of the venue known as Mono Lounge. The basement area of the premises known as Basement Bar is proposed to change to a late night bar allowing customers the option of a meal.
- 6.3 The Basement Bar is to open at 18.00 hours with the last sale of alcohol at 01.00 hours with the venue to close at 01.30 hours.
- 6.4 The area known as Miniature Restaurant and the Mono Lounge is to open at 11.00 hours and the last sale of alcohol at 01.00 hours with the venue to close at 01.30 hours.
- 6.5 To licence is to include the provision of live music Friday and Saturday 18.00 hours until midnight.
- 6.6 To vary will increase the licensed provision of recorded music from 11.00 hours until 01.00 hours Monday to Saturday, Sunday 11.00 hours until 01.00 hours.
- 6.7 The opening hours of the premises from 11.00 hours until 01.30 hours every day
- 6.8 The Applicants had pre application discussions with Environmental Health before the application was submitted. Environmental Heath's advice is attached as Appendix 4.

### **7 Representations from Interested Parties**

- 7.1 One representation from a local resident was received. The Council did not reject any representations. This is attached as Appendix 7.

### **8 Representations from Responsible Authorities**

- 8.1 Environmental Health has made a representation to this application. This is attached as Appendix 5.
- 8.2 Surrey Police has made a representation to this application. This is attached as Appendix 6.
- 8.3 No other representations from Responsible Authorities were received.

### **9 Policy Considerations**

- 9.1 A copy of the Councils' Statement of Licensing Policy (December 2018) has been sent to the Applicant and Interested Parties together with the report. Members will need to have due regard to the representations submitted and the location of the premises with Epsom and Ewell Borough Council. Miniature is in the Red Zone

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- 9.2 Since Minatures premises is in the red zone and the application is beyond midnight, there is policy presumption to refuse the application unless the applicant can clearly demonstrate that the premises will not add to the cumulative impact for the area and satisfies the criteria stated in the policy of Epsom and Ewells Statement of Licensing Policy.

### 10 Legal Implications

- 10.1 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 and 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.
- 10.2 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.

### 11 Statutory time-frame for holding a hearing

- 11.1 The last date for representations was 3 May 2021. Pursuant to The Licensing Act 2002 (Hearings) Regulations 2005 a hearing for purposes of section 35(3)(a) Licensing Act 2003 should have commenced 20 working days thereafter. This became impossible with significant constraints on the Council's resources due to the Covid-19 Pandemic and a delay was agreed by both parties.

### 12 Monitoring Officer's Comments

- 12.1 None arising from the contents of this report.

### 13 Policies, Plans & Partnerships

- 13.1 None relevant for the purposes of this report.

### 14 Background papers

- 14.1 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

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Licensing Act 2003

The Licensing Act 2003 (Hearings) Regulations 2005