

Licensing (Hearing) Sub-Committee  
20<sup>th</sup> March 2023

**EWELL LOCAL 178 KINGSTON ROAD EPSOM KT19 0SF**

**Head of Service:** Rod Brown, Head of Housing & Community

**Wards affected:** Auriol Ward;

**Appendices (attached):**

- Appendix 1:- Application for a premises licence
- Appendix 2:- Plan attached to application
- Appendix 3:- Redacted Petition received 20 February 2023
- Appendix 4:- Redacted Petition received 22 February 2023
- Appendix 5:- Location Map
- Appendix 6:- 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 sections 17 and 18.

**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 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.**

# Licensing (Hearing) Sub-Committee

## 20<sup>th</sup> March 2023

### **1 Reason for Recommendation**

- 1.1 In carrying out its licensing functions, the Licensing Authority must have regard to its statement of licensing policy and any statutory guidance issued under s 182 of the Licensing Act 2003.
- 1.2 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 Background**

- 2.1 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.
- 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.

### **3 Details of application**

- 3.1 On 26 January 2023 Jasmit Singh Nagpal (“The Applicant”) applied for a premises licence for the premises known as Ewell Local 178 Kingston Road, Epsom KT19 0SF to supply alcohol for consumption of 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.

### **4 Representations**

- 4.1 The Council received relevant representations by way of petitions with signatures from local residents as detailed in Appendix 3 and 4.
- 4.2 No representations from any responsible authority were received.
- 4.3 On 23 February officers spoke with the person whose name appeared on the covering letter of the petition received 20<sup>th</sup> February, Karen Mason. They advised that they had helped write the wording of the petition to help their local convenience store, who had then made it available for customers to sign. Karen Mason could not remember the name of the premises, but from her description provide officers believe it is likely to be Royal Enterprises at 183 Kingston Rd. Karen Mason did not know how Best One (named on the petition received 22<sup>nd</sup> February) got a copy of the petition but believes it supplied by her local convenience store. Karen Mason said she had only helped produce the petition as a favour, and did not want to be involved in the licensing process further.

# Licensing (Hearing) Sub-Committee

## 20<sup>th</sup> March 2023

- 4.4 The petition gives 3 grounds for objecting to the premises licence application. Grounds A and C do not relate to the licensing objectives and are not relevant. Ground B, that 'an off licence may attract customers who may cause trouble if open til late in the evening' may be relevant to the licensing objectives, and on this basis the petition were considered relevant representation.
- 4.5 A premises licence authorises the sale of alcohol for consumption off premises at Royal Enterprises Monday to Saturday 08.00 to 23.00 Hours, and Sunday 10.00 until 22.30 hours. Best One is licensed for the sale of alcohol for consumption off premises Monday to Sunday 06.00 hours until 23.00 hours.
- 4.6 A location plan showing the local area is attached at appendix 5.

### **5 Conditions**

- 5.1 If granted the licence would be subject to the mandatory conditions as attached at Appendix 6.
- 5.2 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 18 of the application (Appendix 1).

### **6 General principles to be followed**

- 6.1 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
- 6.2 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 Licensing Act 2003.

### **7 Policy Considerations**

- 7.1 A copy of the Councils' 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.

# Licensing (Hearing) Sub-Committee

## 20<sup>th</sup> March 2023

- 7.2 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. The Section 182 Guidance document was reissued by the Home Office in December 2022, however none of the updates effect the determination of review applications. 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.

## 8 Legal Implications

- 8.1 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.
- 8.2 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.
- 8.3 All applications for new or varied Premises Licences or Club Premises Certificates must be advertised by the display of a notice at the premises and by a public notice in the local newspaper. Pursuant to the Council’s constitution the Council’s licensing department has determined that there is a valid application that complies with the requirements of the Licensing Act 2003.

## 9 Background papers

- 9.1 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>

# Licensing (Hearing) Sub-Committee

## 20<sup>th</sup> March 2023

- Licensing Act 2003
- The Licensing Act 2003 (Hearings) Regulations 2005