

Minutes of the Meeting of the LICENSING (HEARING) SUB-COMMITTEE held at the Council Chamber, Epsom Town Hall on 13 August 2025

PRESENT -

Councillor Julian Freeman (Chair); Councillors Neil Dallen and Rob Geleit

In Attendance: Jenny Billin (Licensing Enforcement Officer, Surrey Police), Aniket Patel (Applicant) and Bill Donne (Applicant's Representative) (Silver Fox Licensing Consultants)

Officers present: Kate Gillman (Solicitor), Paul Holliday (Principal Licensing Officer), Karen Whibley (Licensing Officer), Becca Richards (Assistant Environmental Health Officer), Rebecca Wilson (Environmental Health Officer) and Dan Clackson (Democratic Services Officer)

4 APPOINTMENT OF THE CHAIR

The Sub-Committee unanimously agreed that Councillor Julian Freeman be appointed as Chair of the meeting.

5 DECLARATIONS OF INTEREST

No declarations of any disclosable pecuniary interests or other registrable or non-registrable interests were made by Members in respect of any items considered at the meeting.

6 DETERMINATION OF VARIATION OF PREMISES LICENCE

The Sub-Committee received a report to determine an application to vary a premises licence where the authority had received relevant representation.

The Principal Licensing Officer introduced the report. Within his introduction he stated the following:

- a) He stated that the hours requested within the original application were for 24/7 sales, with sales from 11pm onwards to be made via a hatch. He stated the requested hours had, however, been amended since the initial application, as seen within the skeleton argument circulated prior to the meeting.

The Sub-Committee invited other parties to ask questions of the Principal Licensing Officer. No parties had any questions to ask of the Principal Licensing

Officer at this time. The Sub-Committee had no questions to ask of the Principal Licensing Officer at this time.

The Sub-Committee invited the Applicant to make an opening submission. The Licensing Consultant (Applicant's representative) provided an opening submission on behalf of the Applicant:

- a) He stated that the hours requested within the original application were for 24/7 sales, with sales from 11pm onwards to be made via a hatch. He stated the requested hours had, however, been amended since the initial application, as seen within the skeleton argument circulated prior to the meeting.
- b) He stated that his client had owned the business in question for over three years, and that during that time he had experienced no issues requiring the police to be called.
- c) He stated that his client had recently taken on a new franchise agreement which would include upgrades and refurbishments to the store. He stated that, along with the refurbishments, his client also intended to increase trading hours as set out in the skeleton argument.
- d) He stated that his client was taking the opportunity as part of the application under consideration to request the modification of the conditions attached to the licence by way of the removal of all current conditions in favour of new ones as proposed in the skeleton argument, which he posited were commensurate with modern operating standards. He stated that he understood, through communication from the Licensing Officer, that the proposed conditions were considered acceptable by the Police and Environmental Health.
- e) He stated that the store was located on a busy junction along an arterial road with traffic 24/7 and that the company director lived in close proximity to the store.
- f) He stated that Licensing Officers had confirmed that the application had been properly advertised in line with regulations, and that no representations against the application had been submitted by members of the public.
- g) He stated that he had researched the crime statistics of the Ewell area on the 'Police UK' website, which stated that the area as a whole averaged 50 offences per month, with the specific area of the shop averaging less than 1 per month. He stated that of those <1 offences per month, very few were public order offences. He suggested that later opening hours, serving convenience items as well as alcohol, would not attract disorderly crowds.

The Licensing Consultant responded to questions and comments from the Sub-Committee on behalf of the Applicant:

- a) He confirmed that the hours now proposed were for 7am-2am Sun-Thurs, and 7am-3am Fri-Sat. He stated that the intention was that the shop doors would be closed from 11pm each day, with all subsequent sales until closing time being made via a hatch.
- b) He confirmed that contactless payments could be made through the glass window of the hatch.
- c) He stated that the public had been given an appropriate opportunity to make representation, with all legislative requirements to advertise the application having been properly carried out.
- d) He stated that, in the case of online sales, the responsibility to obtain proof of age or determine whether the customer is intoxicated would be with the delivery service provider and would be carried out by the delivery driver at the time of delivery. He stated that this was set out as a proposed condition within the skeleton argument.

The Sub-Committee invited other parties to ask questions of the Applicant. The Responsible Authorities had no questions to ask of the Applicant at this time. The Licensing Consultant responded to questions from the Principal Licensing Officer on behalf of the Applicant:

- a) The Principal Licensing Officer referred to the skeleton argument and asked for confirmation that the proposals with respect to how the store would be run (e.g. that no customers or delivery drivers would be permitted in store from 23:00 each day) set out at the section titled 'Amended Application-Sale of Alcohol by Retail (Off sales only)' were intended for inclusion as conditions on the licence. The Licensing Consultant confirmed that was correct.

The Licensing Consultant responded to questions from the Sub-Committee's Legal Advisor on behalf of the Applicant:

- a) In respect of Environmental Health's concern regarding delivery drivers potentially mounting the kerb to approach the hatch, the Licensing Consultant stated that it was intended that delivery drivers would park up at the shop's delivery entrance, where a lorry could be seen parked in the top picture of appendix 1 of the skeleton argument.
- b) The Licensing Consultant confirmed that proposed condition 13 of the 'Police conditions-Delivery' within the skeleton argument should say '...when delivering and collecting...'.

The Licensing Consultant responded to questions from the Sub-Committee on behalf of the Applicant:

- a) The Licensing Consultant stated that the Applicant had considered the possibility of limiting deliveries to electric vehicles only, but had ultimately decided against it on account of many delivery drivers still using petrol vehicles.

The Sub-Committee invited the Responsible Authorities to make an opening submission. The Licensing Enforcement Officer (Surrey Police) provided an opening submission:

- a) She stated that when the application was initially submitted, it was the view of the Police that the proposed licence conditions would not be suitable to uphold the licensing objectives. She stated, however, that the Police were happy that the proposed updated conditions contained within the skeleton argument addressed their concerns.
- b) She stated that, following the circulation of the skeleton argument and the amendment to the proposed trading hours contained within, the Police had continued concerns in respect of the proposed trading hours, and recommended a further reduction to 7am-1am Sun-Thurs, and 7am-2am Fri-Sat – she stated that these hours would bring the application in line with other licenced premises in the area.
- c) She stated that an extension to the trading hours of a premises, as seen in the application before the Sub-Committee, can give rise to an increase in crime and disorder, and that the Police's objection against the application in question was made as a preventative measure against the potential crime and disorder that could be caused by the proposed extension to the trading hours.

The Sub-Committee invited the Applicant to respond to the Licensing Enforcement Officer's opening submission. The Licensing Consultant responded on behalf of the applicant:

- a) He stated that the crime stats listed on the Police UK site for the area did not say the time of day the crimes took place, and stated there was no evidence to suggest that the proposed extension to the trading hours would cause an increase in crime.
- b) He stated that Applicant was confident that the conditions within the skeleton argument would be sufficient to ensure the promotion of the licensing objectives.

The Licensing Enforcement Officer responded to questions from the Sub-Committee:

- a) The Licensing Enforcement Officer stated that anti-social behaviour and crime & disorder had been high during night-time economy hours in Epsom town centre over the last few years, with connection with premises in the town centre with a licence to sell alcohol until 3am. She stated that anti-social behaviour and crimes recorded in the town centre included grievous bodily harm, violence against women and girls, and loitering.

The Licensing Consultant responded to questions from the Environmental Health Officer (Environmental Health) on behalf of the Applicant:

- a) He stated that sales would not be restricted to delivery drivers only, and that pedestrians would also be able to use the hatch to make purchases. He stated that purchases made by pedestrians would be made verbally, via conversation with staff through the hatch.
- b) He stated that the shop location was in a noisy area due to being situated along a busy road.
- c) He stated that any suggestion that the proposed extension to trading hours could result in crime & disorder or public nuisance was speculation only.
- d) He stated that there were other businesses in the local area with late trading hours and that the premises was not located within the Amber or Red zone (as described in the Council's Statement of Licensing Policy).
- e) He stated that he was confident that the proposed conditions, along with the location of the shop and the hatch, were adequate in addressing the issue of potential public nuisance. He stated that avenues were available via noise abatement notice or licence review, should it transpire that such a process becomes required.

The Licensing Consultant responded to questions from the Sub-Committee on behalf of the Applicant:

- a) He stated that he did not have the means to estimate how many pedestrians would use the hatch in comparison with delivery drivers.

The Licensing Consultant responded to questions from the Environmental Health Officer (Environmental Health) on behalf of the Applicant:

- a) He stated that it was intended that the delivery drivers would park up on the driveway on the pavement next to the shop and would not use the alley leading to the residential properties.
- b) He stated that the Applicant would install additional exterior lighting which would aid in confirming the age and identity of customers and delivery drivers.
- c) He stated that, in case of emergencies, the premises was equipped with a burglar alarm and two panic buttons. He stated that it was not yet known as to whether or not the shop would be staffed by a lone worker during late hours, but the Applicant had completed a risk assessment and had identified no additional risk beyond that inherent to lone working at any time of day. He stated that the shop's doors would be locked at 11pm and that the hatch's design ensured that staff were protected from being grabbed by anyone outside the shop.

The Licensing Consultant responded to questions from the Sub-Committee on behalf of the Applicant:

- a) He stated that the Applicant wanted to sell to pedestrians as well as to people using delivery apps and would not accept a condition limiting sales to only those made through apps.
- b) He stated that he was not aware of any historical issues or concerns from the Police relating to street drinking in area or of any PSPO covering the area. He stated that within the proposed conditions it was set out that deliveries were to be made to residential or business addresses only.
- c) He stated that customers would not be able to make orders by phoning the store, and that all remote orders would need to be made via an App, through a third-party delivery service.

The Sub-Committee invited the Applicant to respond to ask any questions of the responsible authorities. The applicant had no questions to ask of the responsible authorities at this time.

Some points of clarification were made in response to comments made by the Licensing Consultant:

- a) The Principal Licensing Officer confirmed that there was currently a PSPO in place, encompassing the entirety of the Borough, which addressed anti-social behaviour relating to alcohol consumption.
- b) The Principal Licensing Officer referred to caselaw (East Lindsey District Council v Abu Hanif) which stated that responsible authorities need not wait for the licensing objectives to be actually undermined before objecting to a licence being granted. He also referred to caselaw (Daniel Thwaites v Wirral Magistrates Court and Others) which stated that responsible authorities are recognised experts on their field and weight should be attached to their representation. The Licensing Consultant in response, stated that the Abu Hanif case related to illegal workers working at a restaurant and was not of relevance to the matter under consideration at present. The Sub-Committee's Legal Advisor stated that when considering the promotion of the licensing objectives, preventative measures can be taken into account, rather than just considering issues that have already occurred.

The Sub-Committee invited the Responsible Authorities to make a closing submission. The Licensing Enforcement Officer (Surrey Police) provided a closing submission:

- a) She stated that the Police would be happy with the application should the Sub-Committee be minded to reduce the hours as discussed earlier.

The Environment Officer (Environmental Health) provided a closing submission:

- a) She reiterated that Environmental Health had concerns regarding the application in respect of public nuisance and had evidence from within the shop's area that later trading hours can give rise to an increase in public nuisance – she stated that the road on which the shop was located

contained two premises licensed to sell alcohol 24/7, one of which (a petrol station) had had a noise complaint associated with it, which was currently under investigation.

Some points of clarification were made in response to comments made by the Environmental Health Officer:

- a) The Principal Licensing Officer confirmed that there were three premises in the Borough with a 24/7 licence to sell alcohol, all of which were petrol stations. The Environmental Health Officer confirmed that none of the petrol stations in question sold anything via delivery service.
- b) The Sub-Committee's Legal Advisor advised that the application had been amended since its initial submission and was no longer applying for 24/7 trading hours. The Principal Licensing Officer confirmed there were premises in Epsom town centre which sold alcohol up to 3am, which was the closing time the application under consideration was now applying for – he confirmed that the latest closing time of any premises in the shop's area, however, barring the aforementioned petrol stations, was 1.30am.

The Sub-Committee invited the Applicant to make a closing submission. The Licensing Consultant provided a closing submission on behalf of the Applicant:

- a) He stated that over the last three years of operations, there had been no concerns with respect to the running of the shop from Environmental Health or the Police. He stated that the proposed conditions would be robust to prevent any issues with respect to the licensing objectives.
- b) He stated that noise issues related to petrol stations would be unique to their business and not relevant to the shop in question.

The meeting was adjourned at 11:56 and the Sub-Committee retired from the Council Chamber with their Legal Advisor to consider the application.

The Sub-Committee and their Legal Advisor returned to the Council Chamber and resumed the meeting at 12:46.

Having read the material presented in the agenda and all of the written representations made, having listened to all the evidence and submissions presented at the hearing, and having regard to the Statutory Guidance and the Licensing Policy of the Council, the Sub-Committee made their decision, which was relayed by the Chair as follows:

“We have listened to representations from the applicant and read the skeleton argument and suggested conditions therein, with the addition of the word ‘collecting’ to number 13 of the ‘Police Conditions-Delivery’ section. We understand from the Responsible Authorities that the conditions are now accepted but we are being asked to consider a reduction in operating hours for sale of alcohol due to fears re nuisance and potential anti-social behaviour.

We have had due regard to the representations we have heard and treat the Environmental Health Officer and Police Licensing Officer as experts in their respective fields. We are happy that the conditions proposed promote the licensing objectives and we therefore make those conditions. We have considered the operating hours to sell alcohol via off sales proposed by the applicant and are particularly concerned about noise nuisance on weekdays in a residential area and feel that licensing the shop to 2am would undermine the licensing objectives. We therefore grant the licence but will only allow off sales between the hours of 7am to 1am on Sunday to Thursday, as proposed by the police. We will grant the application for off sales between the hours of 7am and 3am on Fridays and Saturdays, as we feel that noise and activity will cause less nuisance to the area which will already be busier on weekend nights”.

The Chair advised that the decision of the Sub-Committee would be followed up by written confirmation of the decision in due course and advised that the applicant and the representors had a right of appeal against the decision of the Sub-Committee, within 21 days of the notification in writing to the applicant, to the Magistrates Court.

The meeting began at 11.06 am, was adjourned between 11.56 am – 12:46 pm, and ended at 12.50 pm

COUNCILLOR JULIAN FREEMAN (CHAIR)