

**PREMISES LICENCE APPLICATION: DIA Y NOCHE, 39 THE OAKS SQUARE,
EPSOM, KT19 8AS**

<u>Report of the:</u>	Head of Housing & Community
<u>Contact:</u>	Rachel Jackson
<u>Annexes/Appendices (attached):</u>	<u>Annexe 1</u> - Application form <u>Annexe 2</u> - Representation received from a Ward Councillor <u>Annexe 3</u> – Representation received from Environmental Health <u>Annexe 4</u> - Revised conditions submitted by applicant <u>Annexe 5</u> - Location map
<u>Other available papers (not attached):</u>	Statement of Licensing Policy Code of conduct and practice in Licensing procedures and Hearings Guidance issued under Section 182 of the Licensing Act 2003

REPORT SUMMARY

The Panel is requested to determine an application for the grant of a Premises Licence application made under the Licensing Act 2003.

RECOMMENDATION

- (1) The Panel is requested to determine whether or not the application should be granted.**

1 Current Position

- 1.1 An application has been submitted for the grant of a Premises Licence for the premises known as Dia y Noche, 39 The Oaks Square, Epsom.
- 1.2 Following discussions between the applicant and Town Ward Councillors, some conditions submitted in the application have been amended or new conditions proposed, and these are attached as Annexe 3.

- 1.3 In addition, the applicant has submitted the following technical information regarding the construction of the premises; a double glazed shop front using 6.4mm and 4mm toughened and laminated glass has been installed. The ceiling of the bar has had installed with a high rated sound absorbing 45Rw Rockwool 100mm thick with an acoustic void above of no less than 300mm. The main ceiling is then covered with sound acoustic plaster board. The internal pillars have been left with a void and fully enclosed in sound acoustic plaster board.

2 Introduction

- 2.1 The application is to allow the supply of alcohol from: 09:00 hours until 23:00 hours Monday to Thursday; 09:00 hours until 00:00 Friday and Saturday and 10:00 until 23:00 Sunday.
- 2.2 The provision of live music from: 18:00 hours to 23:00 hours on Thursday; 18:00 hours to 00:00 Friday and Saturday and 17:00 hours to 22:00 Sunday.
- 2.3 In addition the application is to allow live music, recorded music, performance of dance, anything of a similar description and late night refreshment at varying times as specified within the application form.
- 2.4 Non-standard timings are detailed within the application form.

3 Representations from Interested Parties

- 3.1 A representation has been received from Councillor Axelrod, Town Ward Councillor on the grounds of public nuisance.

4 Representations from Responsible Authorities

- 4.1 Environmental Health have submitted a representation on the grounds of public nuisance.
- 4.2 Surrey Police and Surrey Children's Service have no representation subject to agreed conditions being imposed on any licence.
- 4.3 No representations/responses were received from the Planning Authority, Surrey Fire and Rescue, Surrey Trading Standards or the Primary Care Trust.

5 Policy Considerations

- 5.1 The premises is located within the "red zone" defined within the Council's Statement of Licensing Policy, however the Policy states that where an application for a pub/café is submitted within this area, then it will generally be granted, unless it can be shown that the application would undermine the licensing objectives.

6 Equalities and Other Legal Implications

- 6.1 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.
- 6.2 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.

7 Conclusions

- 7.1 The Panel is requested to determine whether or not the application should be granted. In doing so, the Panel can:
 - 7.1.1 grant the licence subject to:
 - (a) any conditions which are consistent with the operating schedule modified as the panel thinks appropriate in order to promote the licensing objectives;
 - (b) any mandatory condition which must be included in the licence;
 - 7.1.2 exclude from the scope of the licence any licensable activity to which the application relates;
 - 7.1.3 refuse to specify a person in the licence as the premises supervisor; or
 - 7.1.4 reject the application.

WARD(S) AFFECTED: Town Ward;