

**REPORT TO THE LICENSING SUB-COMMITTEE – 10<sup>TH</sup> OCTOBER 2022**

**APPLICATION FOR THE GRANT OF A PREMISES LICENCE AT VINO V LTD., WALSALL HOUSE, 24 GODSTONE ROAD, LINGFIELD, RH7 6BW WHICH HAS ATTRACTED REPRESENTATIONS**

Report of:	Ian Garrod, Licensing Officer - Tel: 01883 732794 <a href="mailto:licensing@tandridge.gov.uk">licensing@tandridge.gov.uk</a>
Purpose of Report:	An application has been made for a premises licence at Vino V Ltd, Walsall House, 24 Godstone Road, Lingfield, RH7 6BW under the Licensing Act 2003 ('the Act'). During the consultation period representations were received from Lingfield Parish Council and from a number of residents in respect of the application. The representations received have raised concerns that the licensing objectives under the Act have not been met. In accordance with S18(3) of the Act, the application must now be determined by a Sub-Committee of the Council's Licensing Committee.
Publication status:	Unrestricted.
Recommendations:	<p>That, in accordance with its delegated powers, the Sub-Committee either:</p> <ul style="list-style-type: none"><li>(a) grant the Licence subject to—<ul style="list-style-type: none"><li>(i) the conditions as consistent with the operating schedule accompanying the application, and as modified by agreement with the applicant, and the objector, or modified to such extent as the authority considers appropriate for the promotion of the licensing objectives,</li></ul></li><li>(b) exclude from the scope of the Licence any of the licensable activities to which the application relates;</li><li>(c) to refuse to specify a person in the licence as the premises supervisor;</li><li>(d) reject the application.</li></ul> <p>Members of the Licensing Sub-Committee are asked to make a decision at the end of the Hearing after all relevant parties have been given the opportunity to speak. Members must give full reasons for their decision.</p>
Appendices:	<p>Appendix A Previous application for the grant of a Premises Licence Appendix B Previous premises plan Appendix C Decision Notice from previous hearing Appendix D Current application for the grant of a Premises Licence Appendix E Current premises plan Appendix F Map of the area Appendix G Objection from Lingfield Parish Council Appendix H Objections from members of the public Appendix I Messages of support from members of public</p>

## 1 Purpose of Report

- 1.1 The supply of alcohol, regulated entertainment and late night refreshment 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 District.
- 1.2 The Licensing Sub-Committee (“the Sub-Committee”) is responsible for the exercise of many of the functions of the licensing authority, including determination of applications where representations have been received.
- 1.3 In accordance with the provisions of Section 18(3) of the Licensing Act 2003, the licensing authority must hold a hearing to determine an application for the grant of a premises licence where relevant representations have been made and not withdrawn.
- 1.4 The Council must consider any representations made; providing that the representations are relevant to the promotion of the licensing objectives and in the case of those made by other persons are not frivolous or vexatious

## 2 Background Information

- 2.1 Walsall House, 24 Godstone Road, Lingfield, RH7 6BW, is closed and was formerly a coffee shop in a parade of shops based beneath residential properties and the applicant wishes to turn the premises into a delicatessen with the capability of selling alcohol for consumption on and off the premises.
- 2.2 The applicant previously applied for a Premises Licence at this site in June 2022. Representations were received in respect of this and amendments were made to the proposed hours in the application, namely Fridays & Saturdays were reduced to 1000 – 2200hrs. A copy of this application is attached as **Appendix ‘A’**.
- 2.3 The original plan for the Premises is attached as **Appendix ‘B’**.
- 2.4 At the Sub-Committee Hearing on 18<sup>th</sup> August 2022, the application was refused in its entirety, and a copy of the Decision Notice is attached as **Appendix ‘C’**.
- 2.5 This application for a Premises Licence was received on 22<sup>nd</sup> August 2022 and was made by Vino V Ltd, 7 Druids Way, Bromley, Kent, BR2 0NQ.
- 2.6 The application is for:-
  - On & Off sales of Alcohol between the hours of 1000 – 2000hrs Monday to Sunday
  - A copy of the application is attached at **Appendix ‘D’** and a copy of the proposed premises plan is attached as **Appendix ‘E’**.
- 2.7 The position of the Premises is shown at **Appendix ‘F’** on a map of the area.

### 3 Consultation

- 3.1 The application for a new Premises Licence has been served on all the responsible authorities and it is confirmed that statutory notices were displayed on the site. The application was available to be viewed by members of the public on the Councils website.
- 3.2 During the 28-day statutory consultation period, representations were received as detailed below: -

Surrey Police	No representations
Surrey Fire & Rescue Service	No representations
Licensing Authority	No response received
Environmental Health	No response received
Trading Standards	No response received
Planning	No response received
Child Protection Authority	No response received
Health Authority	No response received
Home Office Immigration	No response received

#### **Other Parties**

<b>Objectors Name</b>	<b>Grounds</b>
Lingfield Parish Council	Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, Protection of Children from Harm
Ms Sarah Carr	Prevention of Public Nuisance
Mr Martin & Mrs Claudette Edwards	Protection of Children, Prevention of Crime & Disorder, Prevention of Public Nuisance
Mr Andrew Lawrence	Prevention of Public Nuisance
Mrs Sara Nogosek	Prevention of Public Nuisance
Dr Graham Staunton	Prevention of Public Nuisance

- 3.3 The representation from Lingfield Parish Council is attached as **Appendix ‘G’**.
- 3.4 The representations received from the public are attached as **Appendix ‘H’**.
- 3.5 The main cause for representations to be submitted is under Prevention of Public Nuisance with potential disturbance to the area and in local residents’ gardens by customers of the premises causing most concern. However, the licensing objective of Protection of Children from Harm is mentioned in the public nuisance aspect. The licensing objective of Prevention of Crime and Disorder is mentioned in respect of drunkenness and its associated anti-social behaviour.
- 3.6 3 Letters of Support for the application have been received see **Appendix ‘I’**

Ms Claire Bell
Mr Steve Moore
Mr Tim Noble

- 3.7 Mediation between the applicant and persons who have submitted representations has been unsuccessful.
- 4 Policy & Guidance – Points for Consideration

4.1 **Section 182 Guidance**

The Sub-Committee must have regard to the Secretary of States Guidance issued under S182 of the Licensing Act 2003 in April 2018, and pay particular attention to the following paragraphs: -

Chapter 1	Para’s 1.2-1.5; 1.9; 1.16; 1.17; 1.19
Chapter 2	Para’s 2.1–2.6; 2.15–2.21
Chapter 8	Para’s 8.41–8.49; 8.78
Chapter 9	Para’s 9.31–9.44
Chapter 10	Para’s 10.10; 10.13-10.15
Chapter 13	Para 13.10
Chapter 16	Para’s 16.6; 16.26; 16.28; 16.33; 16.36-16.41; 16.55; 16.56

4.2 **Tandridge District Council – Licensing Policy**

The main sections of the Councils Licensing Policy which are particularly relevant to the Sub-Committees decision are set out below and should be considered when determining this application:

- 4 Fundamental principles
- 5 Decision making process
- 7 Premises licences
- 9 The prevention of crime and disorder
- 10 Public safety
- 11 Prevention of public nuisance
- 12 Prevention of harm to children

## 5 Determination

5.1 The Sub-Committee is requested to determine the application in line with Section 5 below, giving full reasons for the decision.

5.2 In determining the application, Members must have regard to the four licensing objectives on which the Licensing Act 2003 is based. These are: -

- The Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

Councillors must have consideration to the representations and take such steps it considers appropriate for the promotion of the licensing objectives.

5.3 In achieving this the Sub-Committee shall disregard information which is not relevant to the application or the promotion of the licensing objectives, and give appropriate regard and weight to evidence i.e. direct evidence is better than circumstantial hearsay (although hearsay is admissible).

## 6 Legal Considerations

6.1 When considering this matter, Members must have regard to government guidance. This makes it clear that the four licensing objectives should be “paramount at all times”. (Home Office Guidance 1.4). Where there are objections to an application, the sub-Committee must have regard to these and to the “likely effect” on the licensing objectives of granting the application.

6.2 It is a fundamental principle of the Licensing Act that each application must be considered on its own merits. (Guidance 1.17).

6.3 If Members, having considered the application, believe that extra measures are required in order to promote the licensing objectives, it may attach additional conditions to the licence provided that these are appropriate, reasonable and proportionate or it may alter or amend any existing conditions. The Sub-Committee must not impose conditions which would be beyond the control of the licence holder. (Guidance 1.16). The Sub-Committee should also avoid imposing any conditions which would duplicate other statutory regulations (e.g. Health & Safety legislation, fire regulations, planning).

6.4 The Sub-Committee is advised to take the above matters into consideration when reaching their decision. Members are reminded that they should not consider any irrelevant matters and must confine their deliberations solely to the issues relating to the licensing objectives.

6.5 Under Section 18(4) of the Act, when determining this application, the Sub-Committee must – having regard to the representations received - take such steps as it considers appropriate to promote the licensing objectives.

6.6 The options are:

- To grant the licence subject to –
  - The conditions mentioned in the operating schedule modified to such extent as the authority considers appropriate for the promotion of the licensing objectives; and
  - Any condition which must under section 19, 20 or 21 be included in the licence;
- To exclude from the scope of the licence any of the licensable activities to which the application relates;
- To refuse to specify a person in the licence as the premises supervisor;
- To reject the application.

6.7 In determining the application, the Sub-Committee must give appropriate weight to:

- evidence presented at the hearing;
- Guidance issued by the Home Office under s.182 of the Act;
- the Council's Statement of Licensing Policy;
- any advice given by the Council's Legal Advisor during the hearing.

6.8 Any party to the hearing may appeal to the Magistrates' Court against the decision of the Licensing Sub-Committee. The appeal must be made within 21 days of the date of notification of the Sub-Committee's decision.

6.9 The Sub-Committee must give full reasons for its decision.

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