

**REPORT TO THE LICENSING SUB-COMMITTEE – 7<sup>TH</sup> NOVEMBER 2022****PREMISES LICENCE APPLICATION - SMALLFIELD WINE SHOP,  
1-2 WOODBRIDGE, CHAPEL ROAD, SMALLFIELD**

Report of:	Ian Garrod, Licensing Officer - 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 Smallfield Wine Shop, 1-2 Woodbridge, Chapel Road, Smallfield, RH6 9NW under the Licensing Act 2003 ('the Act'). During the consultation period representations were received from 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) grants the licence, subject to 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><li>(b) excludes from the scope of the licence any of the licensable activities to which the application relates;</li><li>(c) refuses to specify a person in the licence as the premises supervisor;</li><li>(d) rejects 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:	<ul style="list-style-type: none"><li>A Application for the grant of a premises licence (page 9)</li><li>B Proposed premises plan (page 29)</li><li>C Map of the area around Smallfield wine shop (page 31)</li><li>D Representations from members of the public (page 33 &amp; 35)</li><li>E Offer from applicant to change times of licensable activities (page 37)</li></ul>

**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, provided that the representations are relevant to the promotion of the licensing objectives and are not frivolous or vexatious.

## **2 Background Information**

- 2.1 1-2 Woodbridge, Chapel Road, Smallfield, RH6 9NW is closed. It was formerly an ironmongers and is a standalone building based beneath residential properties. The applicant wishes to convert the premises into a convenience store, grocery and off-licence.
- 2.2 The application for a premises licence was received on 30th August 2022 and was made by Sukhbir Singh Bandal of 125 Rochford Gardens, Slough, SL2 5XB. The application is for off sales of alcohol between the hours of 0600 – 2300 Monday to Sundays.
- 2.3 A copy of the application is attached at **Appendix A** with the proposed premises plan at **Appendix B**.
- 2.4 The position of the premises is shown at **Appendix C** 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 statutory notices were displayed on the site. The application was available to view by members of the public on the Council’s website.
- 3.2 There was a delay in the consultation period due to issues with the newspaper advert. This was extended from 27<sup>th</sup> September to 13<sup>th</sup> October 2022.
- 3.3 There were no objections from the responsible authorities.
- 3.4 Three objections from members of the public were received, one of which was withdrawn after a change in times of opening and alcohol sales was made to the application. The remaining two objections (listed below) are attached as **Appendices D1** and **D2**.

<b>Name</b>	<b>Grounds</b>
Joan Buckett	Prevention of Public Nuisance, Prevention of Crime & Disorder, Protection of Children
Anthony Harris	Prevention of Public Nuisance, Prevention of Crime & Disorder, Protection of Children

- 3.5 The matter in the application being objected to is mainly under public nuisance, i.e. disturbance to the area with regards to drunkenness and its associated anti-social behaviour.

- 3.6 The applicant offered the following amendment (copy attached at **Appendix E**) during the consultation period:

*“We are willing to amend the alcohol and opening hours to match co-op hours Monday to Sunday 07:00 – 22:00.”*

- 3.7 Mediation between the applicant and persons who 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	paragraphs 1.2-1.5; 1.9; 1.16; 1.17; 1.19
Chapter 2	paragraphs 2.1–2.6; 2.15–2.21
Chapter 8	paragraphs 8.41–8.49; 8.78
Chapter 9	paragraphs 9.31–9.44
Chapter 10	paragraphs 10.10; 10.13-10.15
Chapter 13	paragraphs 13.10
Chapter 16	paragraphs 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 Council’s Licensing Policy which are particularly relevant to the Sub-Committee’s decision are set out below and should be considered when determining this application:

- Fundamental principles
- Decision making process
- Premises licences
- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Prevention of harm to children

#### **5 Determination**

- 5.1 The Sub-Committee is requested to determine the application in line with 5.2 to 5.4 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: -

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

- 5.3 Councillors must have consideration to the representations and take such steps it considers appropriate for the promotion of the licensing objectives.
- 5.4 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;
  - exclude from the scope of the licence any of the licensable activities to which the application relates;
  - refuse to specify a person in the licence as the premises supervisor;
  - 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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