

LICENSING SUB-COMMITTEE B – 4 AUGUST 2022

APPLICATION FOR A PREMISES LICENCE – OFFICE BAR, 56 CHERTSEY ROAD, WOKING

Executive Summary

This report considers an application for a Premises Licence (PL) for the above premises.

Recommendations

The Committee is requested to:

RESOLVE THAT the report be considered and the application be determined accordingly.

The Sub-Committee has the authority to determine the above recommendation.

Background Papers:

Application form
Operating Schedule
Representations from Statutory Bodies and Interested Parties
Sustainability Impact Assessment
Equalities Impact Assessment

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1.0 Summary of Proposal

Application Type: New Premises Licence

Variation: No

Site Address: 56 Chertsey Road, Woking, Surrey, GU21 5BG

Applicant Mr Manuel Rocha of 'Rochaconsultancy' Unit 35 Battersea Business Centre, 99-109 Lavender Hill, London, SW11 5QL

on behalf of

Office Bar Ltd, 56 Chertsey Road. Woking. Surrey. GU21 5BG

Application Ref: 22/00152/PREMIS

2.0 Description of Premises

2.1 The premises is proposed to be a Café and Tapas snack bar.

3.0 Details of Proposal and Operating Schedule

3.1 To licence the premises for

- Sale of Alcohol (off and on sales) Monday to Thursday 10:00 - 23:30, Friday to Sunday 10:00 – 01:30
- Live and Recorded music Monday to Thursday 23:00 - 23:30, Friday to Sunday 23:00 – 01:30
- Late night refreshment Monday to Thursday 23:00 - 23:30, Friday to Sunday 23:00 – 01:30

4.0 Promotion of Licensing Objectives

4.1 Each application will be given individual consideration on its merit. Nothing in the Licensing policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in the Licensing policy shall override the right of any person to make representations on an application or seek a review of a licence where provision has been made for them to do so in the Act

4.2 The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

4.3 The operating schedule submitted in the application form, which is attached in Appendix 1, shows a list of proposed conditions that the applicant has put forward to describe the steps they intend to take to promote the four licensing objectives.

5.0 Relevant Representations

5.1 The following representations have been received in relation to the application:

Responsible Authorities

Surrey Police:	No objections have been received.
Surrey Fire and Rescue Service:	No objections have been received.
Environmental Health (WBC):	An Objection has been received
Planning Authority (WBC):	No objections have been received.
Social Services (SCC):	No objections have been received.
Trading Standards:	No objections have been received.
Public Health:	No objections have been received.
Home Office Immigration Dept:	No objections have been received.

Interested Parties

Members of Public:	Nine objections have been received.
Other Persons:	An Objection has been received from the Anti-Social Behaviour Team
	An Objection has been received from the CCTV Manager of Woking Councils CCTV Unit
	A Petition has been received against the application and signed by sixty-seven residents of Enterprise Place

5.2 Representations received had concerns relating to the Prevention of Crime and Disorder, Cumulative Impact and the Prevention of Public Nuisance.

6.0 Policy Considerations

6.1 In making its decision, the Sub-Committee is obliged to have regard to National Guidance (Sections attached as Appendix 3) and the Council's own Licensing Policy. The Sub-Committee must also have regard to all of the representations made and the evidence it hears.

6.2 The Licensing Officer considers the following policies taken from the '**Licensing Policy for Woking Borough**' should be considered for this application.

6.0	Fundamental Principles
6.3	The Council recognises that public houses, nightclubs, restaurants, hotels, theatres, private members clubs, concert halls and cinemas all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. In considering applications, regard will be given to those differences and the differing impact these will have on the local community.
6.4	The Council can only attach conditions to licences where necessary to ensure the licensing objectives are served and may include conditions drawn from the Pool of Conditions relating to the licensing objectives contained in the guidance issued under the Act. When considering conditions, the Council will focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned and those matters which are within the control of the applicant on the premises and in the vicinity of those premises. Whether or not incidents can be regarded as in the vicinity of licensed premises is a question of fact and will depend upon the particular circumstances of the case.
6.6	The Council acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
7.0	The Licensing Objectives (Prevention of Crime and Disorder)
7.1	The Council will carry out its licensing functions with a view to promoting the prevention of crime and disorder and will seek to ensure that licensees take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises as they seek to enter or leave.
7.2	In addition to the requirement for the Council to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent, crime and disorder in the Borough.
8.0	The Licensing Objectives (Public Safety)
8.1	The Council will carry out its licensing functions with a view to promoting public safety and will seek to ensure that licensees take measures to protect the safety of performers and persons attending licensable activities. The risk to public safety will vary according to the type of premises and the activities carried out.
9.0	The Licensing Objectives (Prevention of Public Nuisance)
9.1	The Council will carry out its licensing functions with a view to promoting the prevention of public nuisance and will seek to ensure that licensees take measures to minimise the impact of licensable activities at their premises on people living, working or sleeping in the vicinity. The prevention of public nuisance can include low-level nuisance affecting a few people living locally, as well as major disturbance affecting the whole community.

6.3 The Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- i) Grant the application as made.
- ii) Modify the conditions of the licence, by altering, removing or adding to them.
- iii) Reject the whole or part of the application.

- 6.4 Should the Committee decide to override the policy then it should be clearly evidenced and documented exactly what the 'exceptional circumstance' is that would allow us to depart from the policy.
- 6.5 The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

7.0 Premises Location

- 7.1 The Premises in question is a small premises located at 56 Chertsey Road in Woking Town Centre.
- 7.2 The premises is a two storey business totalling around 81.26m², of which 21.1m² is classed as 'internal storage' – though it is likely that this has changed since the 2017 assessment as the premises has undergone a substantial refurb prior to the Licence Application.
- 7.3 A map showing the location of the premises is attached as Appendix 1.

8.0 Site History

- 8.1 Prior to the refitting of 56 Chertsey Road, the premises in question was a small company called "ibuywargames" who specialised in selling model figures (similar to Warhammer, miniatures for tabletop gaming).
- 8.2 "ibuywargames" also held the occasional tabletop gaming events at the premises and so applied for a premises licence so that they could sell alcohol to their clientele.
- 8.3 The premises was licenced to sell alcohol from 12:00 midday through to 22:00, for consumption on the premises only.
- 8.4 The Licence was held from February 2017 until March 2019, when the shop closed down.

9.0 Licence Application

- 9.1 On the 10 June 2022 an application was received from Manuel Rocha of 'Rochaconsultancy' on behalf of Office Bar Ltd.
- 9.2 The application is for a licenced bar / café selling alcohol for on and off sales.
- 9.3 A copy of the application is attached as Appendix 2.
- 9.4 The proposed floor layout plan of the premises is attached as Appendix 3.

10.0 The Cumulative Impact Zone

- 10.1 The Premises upon which the application is for is located within Woking Borough Council's "Cumulative Impact Zone" (CIZ) – also known as a Saturation Policy.
- 10.2 The area within Woking Town Centre was determined by Woking Council and Surrey Police to contain a concentration of licensed premises within a small area of the town centre, of which was resulting in problems of anti-social behaviour, crime and disorder and that therefore an approach to Cumulative Impact was necessary as part of the licensing policy.

- 10.3 The Woking Town Centre Saturation Policy (Cumulative Impact Zone) forms part of the Council's Licensing Policy – section 7.7.
- 10.4 The Policy relating to the Cumulative Impact Zone states that, “Within the zone, there will be a presumption that all applications for new premises licences, new club premises certificates or variations to existing licences of these type (that are likely to add to the cumulative impact zone) will be refused, following a relevant representation. In making applications for new or varied licences, it will be for the applicant to demonstrate in their operating schedule how they will not add to the cumulative impact of the area in one or all of the licensing objectives.”
- 10.5 The relevant section of Woking Borough Council's Licensing Policy relating to the Cumulative Impact Zone and the plan of the Cumulative Impact Zones in Woking are attached as Appendix 4.
- 10.6 The existence of a Cumulative Impact Zone policy means that there is a presumption of refusal of applications for new licences within the defined area. However, the Policy will only be triggered in the event that someone submits an objection to the application which then drives it to a licensing committee hearing for determination.
- 10.7 The policy shall only be overridden in exceptional circumstances. The presumption of refusal can be rebutted by the Applicant if they can demonstrate in their operating schedule that there would be no negative cumulative impact on one or more of the licensing objectives.
- 10.8 The policy is aimed at the global effect of licences within the area as a whole and not at the quality of the operation or the fitness of the licensee.
- 10.9 The Applicant has made no reference in his operating schedule to the Cumulative Impact Zone and how the premises will be operated and not add to the existing problems within the area.
- 10.10 Whilst the Cumulative Impact Zone (CIZ) and Saturation Policy can be difficult topics to fully understand – we have included excerpts from a document written by a specialist in Licensing law, Gerald Gouriet QC, who wrote an extensive piece on the importance of Cumulative Impact Zones for the Institute of Licensing, which should be born in mind when considering this application. This is also included in Appendix 4.
- 10.11 The policy is clear in that there will be a presumption that all applications will be refused upon receipt of a valid representation, and the Licensing Authority should only depart from this is ‘exceptional circumstances’ where the applicant is able to show that their premises will not add further to any issues in a specific area.
- 10.12 It is important to remember that the CIZ is not specifically about how well a premises is run – or the conditions directly applying to that premises – but whether the business will affect the area as a whole simply by being there.
- 10.13 An example of an ‘exceptional circumstance’ can be given to help clarify this.
- 10.14 If we look at the previous occupier of 56 Chertsey Road, a tabletop gaming shop who held evenings for their customers – they applied for a licence in 2017.
- 10.15 Consideration was given to this application as it was located within the Cumulative Impact Zone – however there were two main factors when considering this application.

- 10.16 Firstly, they were only applying for sale of alcohol for consumption on the premises until 22:00 at night.
- 10.17 Secondly, the very basis for the premises was tabletop gaming. This was evidently not a nightclub, or a dance venue, or somewhere where people are going to be getting drunken and rowdy. Tabletop gaming is, in its essence, delicate and expensive – and it was thought incredibly unlikely that the participants in the games would be causing any drunken disruption.
- 10.18 With its relatively early closing and the type of premises it was, and with no objections received, the premises licence was issued.
- 10.19 As mentioned above, the Policy will only be triggered in the event the premises is located within the defined area and a representation is received. If no representations are received then the application is granted in the terms applied for.
- 10.20 The Licensing Policy CIZ was put in place to prevent further issues in an area already suffering from Anti-Social Behaviour (ASB) on a regular basis. It is therefore important to bear the Policy in mind when making a decision – and ensure that the ‘exceptional circumstances’ are clear, concise and recorded.
- 10.21 There are currently around fifty-seven licenced premises located within in the CIZ.
- 10.22 Details of these premises in summary can be found in Appendix 4.

11.0 Planning and Planning Enforcement Issues

- 11.1 As part of the consultation process, the application was passed to Planning Officers, who identified a potential issue with the application. The premises does not currently benefit from planning permission to operate as a pub, café, drinking establishment.
- 11.2 Therefore, the premises will require planning permission for a Change of Use to operate lawfully.
- 11.3 Planning applications take a minimum of 8 weeks from validation to reach a decision but currently may take longer.
- 11.4 Should this licence be granted as applied for, it is not permitted to operate because it will be breaching Planning Regulations and is liable to enforcement action from the Council’s Planning Department.
- 11.5 It is the licensing authority’s preferred position to ensure planning permission is in place before an application for a licence is made.

12.0 Live and Recorded Music Deregulation explained

- 12.1 It should be noted that the applicant has applied for live and recorded music from 23:00 to 23:30 (Monday to Thursday) and from 23:00 to 01:30 (Friday to Sunday).
- 12.2 Whilst it appears that this is a strangely short time to be applying for music (half an hour to two and a half hours) it should be noted that live and recorded music was “deregulated” as part of the Live Music Act 2012.
- 12.3 The Live Music Act 2012 states that amplified music – bands, in-house sound systems and DJ’s – do not require authorisation when playing on licensed premises that are authorised

and open for the sale of alcohol for audiences up to 500, between the hours of 8am and 11pm.

12.4 Essentially this means that you do not need to be licenced for Live/Recorded music between the hours of 08:00 and 23:00 in order to have such an activity, as long as you are open for the sale of alcohol and the audience does not exceed 500.

12.5 However – it is also worth bearing in mind the information on deregulation taken from the S.182 Guidance.

- If appropriate for the promotion of the licensing objectives, and if there is a link to remaining licensable activities, conditions that relate to non-licensable activities can be added to or altered on that premises licence or club premises certificate at review following problems occurring at the premises. This has been a feature of licence conditions since the 2003 Act came into force. A relevant example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, could create a genuine risk to the promotion of the licensing objectives. It is also not uncommon for licence conditions relating to the sale of alcohol to restrict access to outside areas, such as unlicensed beer gardens, after a certain time.
- Similarly, while karaoke no longer needs licensing as the provision of entertainment facilities (and will generally be classed as a performance of live music) it might, for example, be possible on review to limit the use or volume of a microphone made available for customers on an ‘open-mic’ night (which encompasses more than just live music), if a problem had occurred because of customers purchasing alcohol for consumption on the premises becoming louder and less aware of causing noise nuisance later in the evening. Another example might be a condition restricting access to a dance floor at certain times, where the presence of customers in close proximity who had been consuming alcohol on the premises had led to serious disorder. In the first instance it is for the licensing authority to satisfy itself that a particular condition is appropriate and lawful in each case.

12.6 Consequently, the Guidance makes it clear that whilst Live/Recorded music is not a licensable activity if it takes place between the hours of 08:00 to 23:00 on an alcohol-sales premises, the Licensing Authority and the Licensing Committee still have the powers to implement conditions on the licence in order to prevent public nuisance.

13.0 Noise nuisance in the area

13.1 The area in question has come under some scrutiny over the last few years on account of an increase in noise nuisance, anti social behaviour and disturbances to local residents. This is clearly evident from the objections received from the members of public and the various Woking departments who have voiced their concerns (see Section 13, below).

13.2 When taken into account with the information on the Cumulative Impact Zone (CIZ) and the guidance provided by Gerald Gouriet QC (Appendix 4) it is absolutely vital that we consider this application carefully.

14.0 Objections and representations received: i) Public Objections

14.1 As part of the application process, the Premises Licence Application is advertised both in a local paper (within the first ten days) and at the site itself (for the full 28 days following the application).

14.2 This gives members of the public time in which to make any relevant representations or objections to the application.

14.3 As part of this application, the Licensing Authority has received a total of nine objections from members of the public who either reside within the vicinity of this premises or have a valid reason for raising a concern over the application.

14.4 An overview of the Objections are attached as Appendix 5.

14.5 The Objections from the public are attached as Appendix 6.

15.0 Objections and representations received: ii) Local Authority Objections

15.1 Whilst not covered by the category of “responsible authorities” – concerns and objections have also been received from other areas within the remit of Woking Borough Council.

15.2 Environmental Health, the Anti-Social Behaviour Officer and the CCTV Manager have all submitted representations on the application.

15.3 The Local Authority Department objections are attached as Appendix 7.

16.0 Objections and representations received: iii) Petition from Enterprise Place

16.1 A petition was received from the residents of Enterprise Place in objection to the Application on the grounds of public nuisance. It was signed by sixty-seven residents of Enterprise Place.

16.2 Whilst the petition states the Flat number and a signature, no names have been provided. It is therefore a matter for the Committee to determine how much weight they wish to give the petition.

16.3 The cover letter from the petition, detailing the residents concerns over this premises, is attached as Appendix 8.

17.0 Negotiations with the objectors

17.1 As per the national legislation, objections to a premises licence application are passed to the applicant so that they have a chance to contact those objectors and attempt to negotiate an amendment or a proposal of conditions to the application so that they would be happy to withdraw their objections and the licence could be issued without the need for a hearing.

17.2 All objections were forwarded to the Applicant in line with the legislation.

17.3 On the 6 July 2022 we received an email from Mr Rocha advising that he had had a meeting with the premises owner (Office Bar Ltd) and had gone through the representations.

17.4 He therefore was advising both the Licensing Authority and the Objectors that they were prepared to reduce the applied-for hours for sale of Alcohol on Monday to Sunday from 10:00 to 23:00, with customers off-site by 23:30.

17.5 We received one comment back from one of the objectors stating that they felt that this did not change anything, and they felt the application was still of concern.

17.6 No other comments were received from any of the objectors and no objections were withdrawn as a result of Mr Rocha’s proposal.

17.7 The details of the negotiation emails, Mr Rocha's proposal to reduce hours and a response from one of the other objectors are attached as Appendix 8b.

18.0 Assisting Documentation

18.1 To assist the Licensing Committee, the Councillors Handbook is attached as Appendix 9 and the 'Pool of Conditions' is attached as Appendix 10.

19.0 Summary

19.1 The Licensing Authority is of the view that the granting of this application would add to Cumulative Impact of licenced premises within the area. Whether the premises is perfectly run inside or not, it still adds to the number of licenced premises within the area and the increase in nightlife within the area.

19.2 The residents within the area have serious concerns over the natural effects of how another premises will add to the issues highlighted.

19.3 When taken into account with the Licensing Policy, and in particular the Cumulative Impact Zone, the application should be refused.

19.4 Should the Licensing Committee be of the opinion that they should deviate from the Policy then the reasons and outcome should be clear and concisely recorded.

20.0 Implications

Financial

20.1 There are no significant financial implications. A nationally set application fee is charged to defray the cost of processing applications.

Legal

20.2 The licensing authority must act to promote the four licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

20.3 The licensing authority must have regard to its statement of licensing policy and the guidance issued by the Secretary of State in carrying out its functions

Human Resource/Training and Development

20.4 None.

Community Safety

20.5 Addressed by considering the application.

Risk Management

20.6 The risks to the Council associated with determining an application are:

- Failure to undertake our statutory responsibilities within required timescales;
- Making a decision that may be challenged by the applicant via an appeal to the Magistrates Court with the possible consequence of costs being awarded against the Council; and
- Making a decision that compromises Community Safety.

20.7 These risks have been dealt with in the report under section 4.0 by highlighting that the Sub-Committee is required to determine this application for a premises licence under the Licensing Act 2003 having due regard to the four licensing objectives, national guidance, the local licensing policy, relevant representations and evidence presented at the hearings. Determining applications in this way will reduce the risk of the decisions of the Council being open to challenge via appeal to the Magistrates court and promote Community Safety in the Borough.

Sustainability

20.8 The four licensing objectives addressed in the Council's licensing policy, which the Sub-Committee is obliged to have regard to in making its decision, are in line with the Council's sustainability aims.

21.0 Conclusions

21.1 The Sub Committee is requested to consider the report, the evidence it will hear, representations made, responses to question made and give its decision with reasons.

21.2 Any decision reached will not come into force until the 21 day appeal period expires or any appeal is dealt with by the Courts if so called.

REPORT ENDS