

# Agenda

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THE ROYAL BOROUGH OF  
**KINGSTON**  
UPON THAMES

## Licensing Sub-Committee

Date: Wednesday 1 May 2019

Time: 10:30 am

Place: Guildhall, Kingston upon Thames

### Members

The Sub Committee will consist of three of the following Members; -

Councillors: Lorraine Dunstone, Simon Edwards, Sam Foulder-Hughes, Ed Fram, Hilary Gander, Dennis Goodship, Liz Green, Lesley Heap, Alison Holt, Jason Hughes, Dave Ryder-Mills, Malcolm Self, John Sweeney, Margaret Thompson and Jon Tolley.

### Everyone is welcome to attend the meeting

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## Changes to the Application

The applicants are advised of issues raised in representations from residents and the Responsible Authorities - Police, Fire Service, Environmental Health, Noise and Health and Safety. In discussions with the various parties on these the applicant may agree to accept conditions and/or propose changes to the original application.

The law allows discussions to continue up to the time of the Licensing Sub-committee hearing, often in good time before the hearing. As a result of these discussions, changes to the original application may have been made and representations may have been withdrawn. It will not always be possible to include these emendations in the agenda. The hearing regulations require that should any party to the hearing wish to rely upon any additional evidence, this should be served upon the Licensing Authority five days before this hearing.

At the start of the hearing the Licensing Officer will explain any changes that the applicant has made, conditions agreed with Responsible Authorities, and whether any additional evidence has been served on the Licensing Authority.

## Audio Recording of the meeting

This meeting will be recorded and the recording will be available on the web site ([www.kingston.gov.uk](http://www.kingston.gov.uk)) with the agenda and minutes.

1. **Appointment of Chair**

2. **Declarations of Interest**

3. **Minutes**

To confirm that the minutes of the meeting held on 16 April 2019 are a correct record.

4. **Lal Akash – 25-27 High Street, New Malden, KT3 4BY**

**Appendix A**

To consider the application for Review under the Licensing Act 2003.

5. **Urgent Items Authorised by the Chair**

6. **Exclusion of the Press and Public**

The following matters may be considered in private if the Committee agrees that, under Section 100(A)(4) of the Local Government Act 1972, the public are excluded from the meeting on the grounds that it is likely that exempt information, as defined in paragraph 1 of Part I of Schedule 12A to the Act, would be disclosed. This paragraph covers information relating to any individual.

## Procedure at Licensing Sub Committees

### Organisation of the Committee Room

39. Tables will be set up for the following:

Table 1 Responsible Authorities e.g. Police, Noise Officers, Trading Standards

Table 2 Other persons who are making relevant representations

Table 3 Applicants

Table 4 Case Licensing Officer

### Hearing Procedure

40. The Committee Members will be assisted, where necessary, by

- (1) Legal Advisor
- (2) Committee Secretary

41. The two officers are there to give advice and procedural guidance to the Committee and do not participate in the hearing or deliberations other than to clarify legal or procedural matters. They are the only officers who retire with the Committee.

42. A hearing shall take the form of a discussion led by the Committee who will expect to hear from people in the following order:

1. The case-licensing officer will outline the circumstances of the application, what representations have been made, and the outcome of any discussion.
2. The Applicants.
3. Responsible Authorities that are making representations.
4. Other persons who are making relevant representations. If there are a large number of persons where appropriate they may be invited to select a spokesperson to act on their behalf.

43. Where notice has been given to a party seeking clarification of an issue, further information supporting this application, representation, or notice may be given at the hearing.

44. In normal circumstances, the Chair will allow those that have submitted written representations to have up to five minutes for each party to make his/her submission but, in certain circumstances (e.g. where the issues are more complex or detailed, with considerable number of objections or points), the Chair will allow greater time for a person who is addressing the Committee on his/her representation. The applicant will be allowed five minutes multiplied by the total number of persons addressing the Committee or their representatives e.g. where there are four such persons, the applicant will be allowed at least 4 x 5 minutes, namely 20 minutes to address the Committee.

45. During the hearing, members of the Committee are permitted to ask questions of any party or other person who appears.

46. The Chair will only permit cross-examination by the parties in those instances where it is considered necessary for the clarification of an issue or to elicit further information or if considered appropriate in a case following a request from any party.
47. At the end of the hearing each party will sum up their representation with the applicant speaking last.

### **Failure to Attend**

48. If a party has informed the Council that they do not intend to attend or be represented at the hearing, the hearing can proceed in their absence. If a party who has not so indicated fails to attend or be represented at a hearing the Committee may:
  - Adjourn the hearing to specified date, where it considers this to be necessary in the public interest; or
  - Hear the case in the party's absence.
49. Where an adjournment is made, the Council must notify the parties of the date, time and place to which the hearing has been adjourned.
50. Where a hearing takes place in the absence of the party, the Committee must consider at the hearing the application, representations or notice made by that party.

### **Making the Decision**

51. After having heard the representations and prior to retiring to make its decision, the Committee may, if it wishes, seek the guidance of the case-licensing officer regarding possible suitable conditions in respect of any particular application.
52. The Committee must disregard any information given or evidence produced by a party or witness which is not relevant to: the application; representations or notice; or the promotion of the licensing objectives.
53. The Committee has a duty to conduct its business impartially, not to predetermine the issue and not to discuss matters with press or residents. In making its decision the Committee must give reasons to support the decision. It must state, in respect of premises licenses, why refusal or attachment of conditions is appropriate in order to promote a particular licensing objective, and, in respect of all other applications, the reasons why applications are refused or revoked.

### **Notification of the Decision**

54. The decision and reasons for the decision will be recorded in the minutes of the meeting. These will be circulated and made available on the website. Generally applicants will be sent a decision letter within five working days of the day of the meeting, outlining the decision and any conditions that are attached to the application. In addition, a letter will be sent to all those who made relevant written representations in connection with the application.
55. This will confirm the decision made; any conditions attached to an approval or the reasons for refusal. Details of the respective appeal rights will also be sent with this decision notice. In certain cases (e.g. temporary event notices and reviews of the

premises licence including emergency steps review and any appeal of such a review), the Committee will give the decision orally on the day and the decision notice will be sent in writing as soon as possible thereafter.

56. The Committee must give its decision in accordance with the regulations.

### **Right to Appeal**

57. Applicants and the other parties to the hearing have specified appeal rights. The appeal must be made to the Magistrates' Court within 21 days of the date of receipt of notification of the decision by a party. Details of how to appeal and the grounds on which an appeal may be made will be sent out with the notification letter.

Background papers – held by Gary Marson – Democratic Services – 020 8547 5021, e-mail [gary.marson@kingston.gov.uk](mailto:gary.marson@kingston.gov.uk)

These documents can also be found on [www.kingston.gov.uk](http://www.kingston.gov.uk)

- i. Statement of Licensing Policy – 12 July 2016
- ii. Licensing Hearing procedures – 23 May 2018