

Decision Notice: Application for a Premises Licence

Background

1. Mr Altino de Canhan Garces (**Applicant**) submitted an application for a premises licence for Old Habits, 17 Church Road, Bookham, Leatherhead Surrey KT23 3PG (**Application**).
2. As relevant representations in respect of the Application were submitted, a hearing was arranged to take place on 6 November 2013 at 3 pm in the Council Chamber, Pippbrook, Dorking, Surrey, RH4 1SJ to enable the Council's Licensing Sub-Committee, consisting of Councillor Paul Elderton, Councillor David Sharland and Councillor John Northcott to determine the Application. The hearing was chaired by Councillor Paul Elderton.
3. Councillor John Northcott retired from the hearing as he was unwell. After a short adjournment, Councillor David Sharland and Councillor Paul Elderton reconvened the hearing, which remained quorate.

Attendance and Participation

4. The hearing was attended by:

The Applicant	Mr Altino de Canhan Garces	
Other Persons (formerly known as Interested Parties)	Mr John Pagella	Trustee of the Grange
	Paul Newman	Proprietor of Ken Davey Butchers, 21 Church Road next door to the Premises.

The hearing was not attended by, or on behalf of, a Responsible Authority.

The Licensing Sub-Committee heard from each of those attending.

5. The Licensing Sub-Committee was satisfied that notice of the hearing was served on all relevant parties, and that all those entitled to speak at the hearing had an opportunity to do so.

Summary of Discussion

6. The Applicant explained that the licensing hours set out in the Application were not in fact the actual licensing hours that he required. He stated that he would like to supply alcohol on and off the premises between 08:00 and 18:00 in the winter months, and between 08:00 and 20:00 in the summer months when it was still light at 20:00. The Applicant had spoken to Councillor Paul Newman and taken note of his concerns that the supply of alcohol until 22:00 could undermine the licensing objective of the prevention of crime and disorder. Old Habits is a coffee shop and delicatessen, and the Applicant

would like to sell wine to go with hot food. The Applicant also has a wine business and uses the on-licence sales to promote the off-licence sales of his wines. The Applicant noted that he served and sold wines to accompany a meal and not cheap alcohol.

7. Mr Newman had no objection to a seasonal variation in the hours for the supply of alcohol on and off the premises up to 20:00 for a restricted range of alcohol. People would migrate away from the residential area to the other two pubs in the village.
8. Mr Newman handed a letter to the Licensing Sub-Committee. The letter was from Mr David Fuller who agreed to withdraw his written representation if the Applicant's proposed hours for the supply of alcohol were reduced to correspond with the Applicant's permitted opening hours of 08:00 to 18:00.
9. Mr Pagella explained that the Grange was concerned about the grant of an off-licence, rather than the grant of an on-licence, as Old Habits could sell alcohol to anyone, not just to customers dining at Old Habits. The Grange was concerned about the proposed off-licence sale of alcohol into the evening and the potential for anti-social behaviour creating a public nuisance. The Grange was also concerned about this application representing the first stage in obtaining extended evening opening hours and that the commercial drivers for the business may change over time.
10. Councillor Sharland noted that the Applicant only had planning permission to open between 08:00 and 18:00 Monday to Sunday, and that the Applicant would need to apply for, and be granted planning permission, to open until 20:00 before he could sell alcohol until the proposed hour of 20:00.
11. In discussion with Councillor Sharland, the Applicant was willing to accept a Challenge 25 age verification policy instead of a Challenge 21 age verification policy.
12. The possibility of imposing a condition to restrict the supply of alcohol to wines only was explored. The Applicant explained that he proposed to serve and sell a selection of liqueurs, brandy and other spirits suitable to follow a meal, and a wine-only restriction would not permit him to do that. The Applicant noted that he wanted to keep his options open, as business is difficult and the ability to supply alcohol for extended hours would help the business to survive.
13. The possibility of appropriate conditions to deal with seasonal variations in alcohol licensing hours was discussed as one person's understanding of 'summer' and 'winter' may not align with another person's understanding. The senior licensing officer suggested GMT and BST to differentiate between the summer and winter months.

Decision

14. In all the circumstances, the Licensing Sub-Committee has decided that the licensing objectives are best promoted by granting the Application in accordance with the Application subject to the conditions as are consistent with the operating schedule accompanying the Application save as modified below:
 - (a) the supply of alcohol is licensed between the hours of:
08:00 to **20:00** Monday to Saturday; and
08:00 to **18:00** Sunday;
for the prevention of public nuisance.

(b) the Applicant shall implement a **Challenge 25** age verification policy, as opposed to a Challenge 21 for the protection of children from harm.

15. The Applicant is reminded of the conditions attached to the planning permission MO/2013/0212/CU which limits the hours of opening to **08:00 to 18:00 Monday to Sunday**. Should the Applicant wish to supply alcohol between **18:00 and 20:00 Monday to Saturday** the Applicant will need to obtain planning permission for these additional hours.
16. In determining the applicable alcohol licensing hours, the Licensing Sub-Committee placed weight on the representations from Mr Newman that a terminal hour of 20:00 Monday to Saturday would be acceptable, and was also mindful of paragraph 10.13 of the Guidance.
17. The Licensing Sub-Committee noted Mr Pagella's concerns and the reduction in the alcohol licensing terminal hour from 22:00 to 20:00 Monday to Saturday and to 18:00 on Sunday was considered to be consistent with the licensing objective of the prevention of public nuisance in relation to off-licence sales.
18. In reaching this decision, the Licensing Sub-Committee has had regard to the Council's Statement of Licensing Policy dated November 2011 and to the statutory guidance issued by the Home Office under section 182 of the Licensing Act 2003 dated June 2013.

Rights of Appeal

19. The Applicant and the Other Persons have a right to appeal to the Magistrates Court within 21 days of receiving this written decision notice.