

This report will be made public on 4 February 2022



Report Number **DCL/21/50**

To: Licensing Sub-Committee
Date: 14 February 2022
Status: Non-Executive Decision
Head of service: Ewan Green

SUBJECT: An application to Vary the Premises Licence in respect of:
Sunshine Restaurant, 35-39 High Street, Hythe, Kent, CT21 5AD

SUMMARY: This report outlines the application made by Mr Demir to Vary the existing Premises Licence for this premises. The Licensing Sub-Committee must determine the outcome for the application.

REASONS FOR DETERMINATION:

The Committee is asked to consider the application to Vary the Premises Licence. When considering the application the Committee must ensure they fully promote the licensing objectives. The Committee is obliged to have regard to the revised national section 182 guidance and the council's own licensing policy.

DETERMINATION:

The Licensing Sub-Committee is asked to:

1. Note the contents of Report DCI/21/50.
2. Determine the application. The options for determining the application are set out in section 4.

1. BACKGROUND

- 1.1 The Licensing Act 2003 provides that the sale or supply of alcohol on and off the premises and other licensable activities must be authorised by a premises licence.

A premises licence holder must comply with the four licensing objectives:

- The prevention of crime and disorder
 - Public Safety
 - The prevention of public nuisance
 - The protection of children from harm
- 1.2 From March 2016 there was a premises licence in place for 37-39 High Street as 'a family café/restaurant', the owner (Mr Halit Guner) then expanded the business to include 35-39.
- 1.3 The previous licence for 37-39 High Street permitted alcohol sales from 11:00 – 22:30 Monday – Sunday, with opening hours until 23:00. When the premises expanded to 35-39 High Street in August 2018, a new Premises Licence was granted for a 'family run restaurant serving food and drinks', with alcohol sales from 12:00 – 22:30 Monday – Sunday and opening hours until 23:00.
- 1.4 In December 2018 a Variation was submitted to extend the hours of alcohol sales on Friday and Saturday nights until 00:00 with opening hours until 00:30 and Late Night Refreshment until 00:00. The current licence permits Recorded Music until 22:30 on Friday and Saturday.
- 1.5 In June 2021 the Premises Licence was transferred to the current owner, Mr Ersin Demir. The current Premises Licence can be seen at Appendix 1.

2. APPLICATION

- 2.1 In December 2021 Mr Demir submitted an application to Vary the licence to extend the alcohol sales to 00:30 Friday and Saturday and opening hours until 01:00, Late Night Refreshment until 00:30 and Recorded Music until 00:30. The application to Vary the Premises Licence can be seen at Appendix 2.

3. RELEVANT REPRESENTATIONS

- 3.1. This Hearing has been required by the Licensing Act 2003 because valid representations were received from members of the public. No representations were received from Responsible Authorities.

Responsible Authority	Comments
Home Office - Immigration	None
Kent Police	None
Environmental Health (Pollution)	None
Environmental Health (Commercial)	None
Kent Fire and Rescue	None
Planning	None
Child Protection Agency	None

Three representations from members of the public can be found at Appendix 3.

4. OPTIONS

- 4.1. The Licensing Sub-Committee has the following options:
- a) Grant the Application
 - b) Grant the Application with amendments
 - c) Add conditions to the Licence
 - d) Reject whole or part of the Application
- 4.2. The Committee is asked to note that it may not add conditions or amend the licence merely because it considers it desirable to do so. The Committee must only consider evidence that relates to the 4 Licensing Objectives. Any conditions added must promote the Licensing Objectives.

5. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Briony Williamson, Licensing Specialist
Telephone: 01303 853475
Email: briony.williamson@folkestone-hythe.gov.uk

Background documents:

Current Licensing Policy is available under the Policies section of the website:

<https://www.folkestone-hythe.gov.uk/your-council/policies-plans-and-documents/policy-documents>

The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available at:
<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

The Committee members are advised to read the new guidance thoroughly. Your attention is drawn to paragraphs 9.42, 9.43 and 9.44 in respect of the determination of the application. Additionally members are advised to refer to section 10 about imposing conditions. It is also good practice that if they propose to apply conditions they should be discussed with the applicant prior to the determination to ensure that they are proportionate.

6. APPENDICES

Appendix 1. Current Licence

Appendix 2. Application to Vary a Premises Licence

Appendix 3. Representations