

BABERGH DISTRICT COUNCIL

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| From: Head of Environment | Report Number: P41 |
| To: Licensing Sub-Committee | Date of meeting: 5 September 2014 |

LICENSING ACT 2003: HEARING TO DETERMINE AN APPLICATION MADE FOR THE GRANT OF A NEW PREMISES LICENCE – CHICKEN GEORGE, 10-11 KING STREET, SUDBURY CO10 2EB

1. Purpose of Report

- 1.1 To report information to the Licensing Sub-Committee to enable the determination of an application made for the GRANT of a NEW premises licence for Chicken George situated at 10/11 King Street, SUDBURY, Suffolk CO10 2EB. The premises currently benefits from premises licence BPL0176, authorising late night refreshment (supply of hot food and drink for a charge between the hours of 23.00 and 05.00) and recorded music.

2. Recommendations

- 2.1 The Sub-Committee must, having regard to the representations made, take such of the steps below (if any) as it considers appropriate for the promotion of the licensing objectives:

- to GRANT the licence subject to conditions which are consistent with the operating schedule accompanying the application - modified to such extent as the authority considers appropriate for promotion of the licensing objectives - and subject to any mandatory condition(s) which must be included in the licence;
- to EXCLUDE from the scope of the licence any of the licensable activities to which the application relates; or
- to REJECT the application.

For these purposes conditions of the licence are *modified* if any of them are altered or omitted or any new condition is added.

The Sub-Committee is able to determine this matter on behalf of the Licensing Authority.

3. Financial Implications

- 3.1 There is a statutory right of appeal to the magistrates' court for any party aggrieved by the decision taken by the Licensing Authority.

4. Risk Management

- 4.1 None, other than those that inherently apply to the Licensing Authority when carrying out its licensing functions. The four licensing objectives are prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.

5. Consultations

- 5.1 The application made has been subject to a statutory consultation period as prescribed by regulation. Notices advertising the application have been on display at the site and published (Sudbury Mercury – 24 July 2014 edition).

6. Equality Analysis

- 6.1 There are no equality impacts arising directly from the matters contained within this report.

7. Key Information

- 7.1 The hearing is to determine an application for the GRANT of a NEW premises licence made under section 17 of the Licensing Act 2003. The application (number 010867), was received on 10 July 2014 and is attached as Appendix A.

- 7.2 The application has been submitted by:

Mr Alper Tekin

For the premises below:

Chicken George, 10 – 11 King Street, SADBURY CO10 2EB

No designated premises supervisor DPS is required as the application is not seeking an alcohol permission.

- 7.3 The premises are described by the Applicant as being a small fast food takeaway offering fried chicken, pizzas and burgers.
- 7.4 Chicken George has benefitted from a premises licence issued by Babergh District Council since 2005 and Mr Tekin has been the premises licence holder since 2008. For ease of reference a summary of the existing premises licence permissions is attached as Appendix E. A previous variation application made by Mr Tekin to extend hours was rejected via Sub-Committee hearing in May 2009 (Report Number: J13).
- 7.5 The application is seeking late night refreshment indoors beyond the scope of the current premises licence. Following discussions with the Applicant, the Senior Environmental Protection Officer is satisfied that the extent of the recorded music element of the application is low volume background music only and has therefore negotiated the withdrawal of this activity from the application.
- 7.6 Furthermore since the application was submitted the Applicant has made voluntary amendments to their application and mediated some additional conditions with the Senior Environmental Protection Officer, beyond those hours offered within Parts I and L of the application and those steps offered in Part M of the application, attached as Appendix A. These revisions are attached as Appendix D. This set of voluntary reductions has seen the Applicant formally reduce their application to now cease all licensable activities by 01:00hrs Monday to Thursday and Sundays as per their existing premises licence permissions and by 03.30hrs on Fridays and Saturdays. However, the Applicant is still seeking to extend standard timings generally by an additional hour for the days preceding a public holiday, the start of British Summer Time and on certain saint's days subject to seven days prior notice and agreement with the Police.

- 7.7 In addition the Applicant is seeking to extend their hours from the end of authorised hours on New Year's Eve until the start of authorised hours the following day.
- 7.8 A hearing is necessary to determine the application following receipt of representations which have not been withdrawn. These have been submitted by Suffolk Constabulary Force Licensing Unit (defined as a responsible authority under the Licensing Act 2003) and by local residents (defined as other persons under the Act).
- 7.9 The Sub-Committee will be aware that the 'need', or commercial demand, for licensed premises are not considerations for the Licensing Authority when discharging its licensing functions (as outlined by the Secretary of State at paragraph 13.18 of the Guidance issued under section 182 of the Licensing Act 2003). Comments directed at the planning regime or other separate regulation or controls are also not considerations for the Licensing Sub-Committee when determining a licence application. Paragraph 13.55 of the statutory guidance refers to proper separation of planning, building control and licensing functions and that licensing committees are not bound by decisions of a planning committee and vice versa. A licence may be applied for prior to any planning changes which may be required, and the grant of a licence would not negate the requirement on the operator to comply with any existing planning restrictions (including any limitation on hours of operation).
- 7.10 Members of the Sub-Committee will be aware that the Licensing Act 2003 is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certification or authorisation concerned. Nonetheless, the Licensing Act 2003 contributes towards a holistic approach to management of the evening and night-time economy in town and city centres (as outlined by the Secretary of State at paragraph 13.13 of the Guidance issued under section 182 of the Licensing Act 2003).
- 7.11 The Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives, which are:
- (a) the prevention of crime and disorder;
 - (b) public safety;
 - (c) the prevention of public nuisance; and
 - (d) the protection of children from harm
- 7.12 In carrying out its licensing functions, the Licensing Authority must have regard to its 'Statement of Licensing Policy' published under section 5 of the Act, and any guidance issued by the Secretary of State under section 182.
- 7.13 Where revisions are made to the legislation or guidance issued by the Secretary of State, there may be a period of time when the local Statement of Licensing Policy is inconsistent with these revisions. In these circumstances, the Licensing Authority will have regard, and give appropriate weight, to the relevant changes, guidance and its own Statement of Licensing Policy.
- 7.14 The Sub-Committee will also be aware of Human Rights Act 1998 considerations - specifically Article 6 for the applicant and Articles 8 and 1 of Protocol 1 for those raising representations - when determining applications for the grant of a new licence.

8. Representations

The Licensing Authority has received one representation from Suffolk Constabulary, a Responsible Authority under the Licensing Act 2003, although as referred to, a mediated agreement was reached between the Applicant and Environmental Protection.

There have also been representations made by 'other persons' (which includes local residents and businesses), and includes a supportive representation made by the local ward member for Sudbury (East). These representations are attached as Appendix C to this report.

9. Appendices

| Title | Location |
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| A. Application 10867 for GRANT of NEW premises licence | Attached |
| B. Plans / site plan | Attached |
| C. Representations | Attached |
| D. Amendments / mediated agreements | Attached |
| E. Summary and Conditions of Current Premises Licence BPL0176 | Attached |

10. Background Documents

10.1 None

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