

Committee(s): Licensing & Appeals Committee	Date: 27 August 2021
Subject: Application for a New Premises Licence <i>Chick N Shack, 119 High Street, Brentwood CM14 4RX</i>	Wards Affected: <i>Brentwood North Brentwood South</i>
Report of: Dave Leonard - Licensing Officer	Public
Report Author: Name: Dave Leonard Telephone: 01277 312523 E-mail: dave.leonard@brentwood.gov.uk	For Decision

Summary

An application has been received for a new premises licence to allow for the provision of late-night refreshment at ***Chick N Shack, 119 High Street, Brentwood CM14 4RX***. Representations have been received from the following three Responsible Authorities- Brentwood Borough Council's Licensing & Environmental Health departments & Essex Police (Licensing). There have been no representations received from Other Persons. Members are requested to determine the application having regard to the operating schedule, the representations received, the Secretary of State's guidance, Brentwood Borough Council's Statement of Licensing Policy and the four Licensing objectives.

Recommendation(s)

Members are asked to:

Consider this report and appendices together with any oral submissions at the hearing and determines the application in line with the options open to the sub-committee under the Licensing Act 2003: However, the available options are:

1. To grant the application in full on the terms and conditions contained in the operating schedule along with any applicable mandatory conditions;
2. To grant the application in full, modified to such extent as considered appropriate in order to satisfy any relevant representations and to promote the licensing objectives; or
3. To reject the application in whole or in part

Main Report

1. Introduction and Background

1.1 An authorisation is required in respect of any premises where it is intended to conduct one or more of the four licensable activities, these being:

- Sale of alcohol
- Supply of alcohol (in respect of a club)
- Regulated Entertainment
- Provision of Late-Night Refreshment

1.2 An appropriate authorisation is either, a premises licence, a club premises certificate or a Temporary Event Notice.

1.3 Licence holders are required, when offering any licensable activity, to ensure that they promote the licensing objectives at all times. The operating schedule of the application contains details of the activities applied for and the control measures that the applicant will have in place in order to promote these objectives. Such measures will, where appropriate, be converted into enforceable conditions on any licence issued.

1.4 The four licensing objectives are;

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

1.5 Any representation must be able to demonstrate that on the balance of probability the application in its current form will fail to adequately promote one or more of the licensing objectives. No other matters may be considered.

2. Issue, Options and Analysis of Options

2.1 This application was initially received on 15 June 2021 from Mr Gautam Premchand, director of Prem's Solutions Ltd. T/A Chick N Shack in respect of **Chick N Shack, 119 High Street, Brentwood CM14 4RX**. However, owing to administrative and advertising errors the consultation period was extended until 4 August 2021. A copy of the application and its clarification is attached at **Appendix A**.

2.2 The premise is a small fast-food takeaway outlet located in the High Street. Inside there is limited upright counter space to stand at but there are no toilet or wash facilities available to customers. The applicant states that no food will be allowed to be consumed on the premises past 2300hrs and is seeking to provide late-night refreshment for take away only from the premises from the following hours;

Thursday - 23:00 to Friday 03:00
Friday - 23:00 to Saturday 03:00
Saturday - 23:00 to Sunday 03:00

plus Bank Holidays, Christmas Eve, New Year's Eve & other public holidays

2.3 Based on the content of the operating schedule, the conditions attached to any licence issued (in addition to the mandatory condition relating to the use of licensed Security Industry Authority door supervision) will be:

- There will be licenced security on the door from 23:00 until 03:00.
- After close a staff member will be assigned to collect any litter in the vicinity of the shop.

A set of OS Street Maps together with images to better identify the location are attached at **Appendix B**.

2.4 There were three representations received from the Responsible Authorities.

From Brentwood Borough Council –

The Licensing Manager, Mr Paul Adams, identifies that the premises fronts onto the High Street, which is a designated clearway, and has concerns in relation to the public safety licensing objective. He has suggested the following five proposals which, if attached to any subsequently issued licence, may help to promote the licensing objectives –

- Signage should be placed at the entrance to the premises to ask customers to park lawfully, abiding by the parking restrictions and safely when collecting takeaways.
- Any website should provide the same message as above and direct customers to the nearest lawful parking areas.
- All deliver drivers, both employed direct or acting through a third party provider must not park, stop or wait along the length of the parking restrictions of the High Street or adjacent roads unless in a designated loading bay. A written policy/procedure must be in place and agreed with the Licensing Authority that covers the daily management of the parking of customers and delivery drivers when collecting takeaway orders.

- Door staff engaged at the premises should actively engage with customers and delivery drivers that park, stop or wait in breach of parking restrictions.
- CCTV must be provided that covers the customer areas and the area immediately outside the premises. (The standard Essex Police working could be appropriate here)

Environmental Health Manager, Mr David Carter, has made representation stating that the applicant has not satisfactorily addressed the prevention of public nuisance or the potential issues caused by customers leaving the premises, queuing for food or consuming food outside the shop, other than to say that any large groups would be dispersed by security, (which they would appear to have no lawful authority to do). Mr Carter claims that the prompt dispersal of patrons from licensed premises at night is impeded by the availability of food businesses, resulting in additional disturbance to residents, anti-social behaviour and litter. He asks that the Licensing Sub-Committee refuse this application or, alternatively, reduce the hours for provision of late-night refreshment such that there is not an attraction for customers to remain in the High Street after other venues have closed.

From Essex Police (Licensing) –

Senior Licensing Officer, Mr Gary Burke, claims that the applicant has not satisfactorily addressed the promotion of the licensing objectives. The police maintain that some areas are natural hotspots for potential crime and disorder and, with a collection of late-night pubs, bars and nightclubs, Brentwood High Street is one such hotspot.

The existence of premises providing late night refreshment in the High Street encourage individuals, many of whom are intoxicated, to remain in the area when the alcohol focused premises close. This congregation often leads to varying degrees of crime and disorder, so it is essential that all premises in the area are doing what they can to prevent such incidents. In its current form, the licence application does not actively prevent, discourage or provide a basis for investigation of any such incidents.

However, Essex Police will consider withdrawing their representation should the application be amended to include the following suggested conditions that are in line with both the operating schedule detailed in the application and other similar premises in the vicinity -

- The premises shall have installed and maintain a closed-circuit television surveillance (CCTV) system which at all times complies with the below requirements:
 - i. CCTV will be provided in the form a recordable system, capable of providing pictures of evidential quality {in all lighting conditions} particularly facial recognition;
 - ii. CCTV cameras shall cover all entrances {and exits} and the areas where alcohol sales take place;

- iii. Equipment must be maintained in good working order, be correctly time and date stamped, recordings must be kept in good working order and kept for a minimum period of {31} days;
Upon the reasonable request of the police or licensing authority staff, within 48 hours viewable copies of recordings will be provided
- Signs must be displayed at all entrances {and exits} advising customers that CCTV is operating at the premises and shall be a minimum size of 200 x 148 mm and clearly legible at all times when the premises conducts licensable activities.
 - Door supervision by SIA licensed door supervisors must be provided every day. On these days, door supervisors must be on duty from 2300 until at least 30 minutes after the premises has closed.
 - All SIA licensed door supervisors engaged at the premises for the purpose of supervising or controlling queues or customers must wear a form of high visibility clothing {jackets/vests/ armbands}
 - Clear and legible notices must be prominently displayed at all exits requesting customers to respect local residents and leave the area quietly. {These signs shall be a minimum size of 200mm x 148 mm}.

All three Responsible Authority representations are attached at **Appendix C**.

2.5 There were no representations received from Other Persons.

3. **Relevant Sections of the Secretary of State's Guidance**

3.1 The following guidance issued under Section 182 Licensing Act 2003 relates to determining applications in relation to promoting the licensing objectives and the hours of trading;

Steps to promote the licensing objectives

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

Hours of trading

10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

3.2 Statement of Licensing Policy

Brentwood Borough Council's Statement of Licensing Policy makes reference to;

Prevention of Crime & Disorder

19.3 The promotion of the licensing objective, to prevent crime & disorder places a responsibility on licence holders to become key partners in achieving this objective. **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.**

Public Safety

21.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. **To this end, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.**

Prevention of Public Nuisance

22.1 Licensed premises have a significant potential to impact adversely on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain & protect the amenity of residents & other businesses from the consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

22.5 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

4. Reasons for Recommendation

4.1 These are the options available to the Committee under the Licensing Act 2003.

5. Consultation

5.1 The application has been consulted on in accordance with the requirements of the Licensing Act 2003.

5.2 Officers from the licensing authority have made several checks on the display of notices to ensure that the blue advertising notice was correctly on display at the front of the building. The applicant did struggle to understand the importance of correctly displaying public notices and of the requirement to advertise in a local paper. As a result, the consultation period was extended on more than one occasion until 4 August 2021.

Implications

Financial Implications

**Name/Title: Jacqueline Van Mellaerts, Corporate Director (Finance & Resources)
Tel/Email: 01277 312829/jacqueline.vanmellaerts@brentwood.gov.uk**

There are no financial implications for this report.

Legal Implications

**Name & Title: Amanda Julian, Corporate Director (Law & Governance) and
Monitoring Officer**

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Conditions may be attached to the grant of any licence, the hours or activities may be amended as appropriate, or in some cases the application may be refused. However, any action taken must be appropriate and relevant to promotion of the licensing objectives having considered the full details of the application and representations including testimony from any interested party present at the hearing.

The justification behind any decision to grant or refuse a licence application or the attachment of conditions, or variation of terms applied for must be recorded and given to the applicant and any person that has made representation.

There is a right of appeal to Magistrates Court by any person or party aggrieved by any decision made by the Sub-Committee.

Background Papers

None

Appendices to this report

- Appendix A - Application Form & Clarification
- Appendix B - OS Street Maps & Images
- Appendix C - Representations from Responsible Authorities -
BBC (Licensing) – Mr Paul Adams
BBC (Environmental Health) – Mr David Carter
Essex Police (Licensing) – Mr Gary Burke

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