



COMMITTEE TITLE: Licensing Sub-Committee

DATE 16 October 2023

REPORT TITLE:	Application for a Premises Licence – Licensing Act 2003 35 High Street, Brentwood CM14 4RG
REPORT OF:	Dave Leonard – Licensing Officer

1. REPORT SUMMARY

This report is to determine an application received from Mr Adriano Dulgher for a new premises licence at **35 High Street, Brentwood CM14 4RG**. A representation that has been provisionally resolved has been received against the application from the Essex Police Licensing Officer, Mr Simon Barnes, as a consulting responsible authority and one further representation in opposition has been received from a local resident.

2. RECOMMENDATIONS

That the Sub Committee:

Considers 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: The options available are:

- i) To grant the application in full on the terms and conditions contained in the operating schedule along with any applicable mandatory conditions;
- ii) To grant the application, modified to such extent as considered appropriate in order to satisfy any relevant representations and to promote the licensing objectives; or
- iii) To refuse the application in whole or in part

3.0 REASONS FOR RECOMMENDATIONS

3.1 These are the options available to the Sub-Committee under the Licensing Act 2003.

4.0 OTHER OPTIONS CONSIDERED

4.1 In line with the Licensing Act 2003 there are no other options to be considered.

5.0 BACKGROUND INFORMATION

5.1 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

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

5.3 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.

5.4 The four licensing objectives are;

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

5.5 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.

The Application

5.6 An application from Mr Adriano Dulgher was received on 9 August 2023 for a new premises licence at **35 High Street, Brentwood CM14 4RG**. A copy of Mr Dulgher's application, together with a layout plan and clarifying correspondence, has been attached at **Appendix 1**.

5.7 Mr Dulgher states that he has over fifteen years' experience owning and running restaurants and has indicated that two parties - either a sushi restaurant or a pizzeria - have been shortlisted to operate at this new unit. The applicant will also be letting new residential apartments above the premises. A set of OS Street Maps and images to better identify the location are attached at **Appendix 2**.

5.8 The application is seeking the following licensable activity;

Recorded Music: Sunday-Thursday 1000hrs-0000hrs and Friday & Saturday 1000hrs-0100hrs

Anything of a Similar Description to that Falling Within Live Music, Recorded Music or Performance of Dance: Sunday-Thursday 1000hrs-0000hrs and Friday & Saturday 1000hrs-0100hrs

Late Night Refreshment: Sunday-Thursday 2300hrs-0000hrs and Friday & Saturday 2300hrs-0100hrs

Supply of Alcohol (On premises): Sunday-Thursday 1000hrs-0000hrs and Friday & Saturday 1000hrs-0100hrs

5.9 In addressing the promotion of the four licensing objectives, the applicant has made undertakings within the operating schedule of the application that will be to be attached as the following conditions on any subsequently issued premises licence. Where an undertaking has by agreement been replaced by a condition agreed with a Responsible Authority the originally proposed operating schedule condition has not been included. In this instance, Mr Dulgher has agreed with Essex Police Licensing Officer, Mr Simon Barnes, to attaching the following recommendations to be attached as conditions to any new licence should it be granted:

1 The premises shall have installed and maintain a closed-circuit television surveillance (CCTV) system that at all times complies with the below requirements;

a. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.

b. CCTV cameras shall cover all public areas including all entrances and exits and all areas where the sale of alcohol takes place.

c. 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.

d. At all times, whilst the premises is open for licensable activities, there are members of staff able to immediately provide viewable copies of recordings to the police or licensing authority staff upon reasonable request.

- e. The recording equipment and data storage devices shall be kept in a secure environment and fitted with security functions (such as passwords) to prevent recordings being tampered with;
 - f. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant: in the event of any failure, this will be recorded immediately.
- 2 Signs must be displayed at all entrances advising customers that CCTV is operating at the premises & shall be a minimum size of 200 x 148 mm and clearly legible at all times when the premises conducts licensable activities
- 3 An incident log shall be kept at the premises, and made immediately available to police or licensing authority staff upon reasonable request. The log must be completed as soon as is possible and within any case within 4 hours of the occurrence and shall record the following:
- a. all crimes reported to the venue
 - b. all ejections of patrons
 - c. any complaints received concerning crime and disorder
 - d. any incidents of disorder
 - e. all seizures of drugs or offensive weapons
 - f. any faults in a CCTV system, searching equipment or scanning equipment mandated as a condition of the licence

The incident log shall either be electronic or maintained in a bound document with individually numbered pages and be retained for at least 12 months from the date of the last entry.

- 4 Except when being used for entry or egress by a patron, all external windows and doors shall be kept shut after 21:00 hours.
- 5 A written dispersal policy will be formulated and provided to the police and licensing authority which amongst other things details:
- a. How patrons leaving the premises shall be directed away from the premises;
 - b. How patrons will be informed of the services of taxi and private hire operators;
 - c. What staff will be responsible for supervising those leaving the premises and how they will supervise such persons;
 - d. Any 'wind' down periods;
 - e. Methods to prevent re-entry to the premises;
 - f. How bottles and glasses will be prevented from being removed from the premises at closing time.

- 6 A Challenge 25 scheme shall be operated, whereby any person who appears to be under the age of 25 years of age is required to produce on request an item which meets the mandatory age verification requirement (photo, name, date of birth and either a holographic mark or ultraviolet feature) and is either a
 - I. Proof of age card bearing the PASS Hologram;
 - II. Photocard driving licence;
 - III. Passport or
 - IV. Ministry of Defence Identity Card.
 - 7 The premises shall clearly display signs at each point of sale and in areas where alcohol is displayed advising customers that a 'Challenge 25' policy is in force. At the point of sale, such signs shall be a minimum size of 200mm x 148mm.
 - 8 A refusals record shall be maintained at the premises that details all refusals to sell alcohol. Each entry shall, as a minimum, record the date and time of the refusal and the name of the staff member refusing the sale. All entries must be made as soon as possible & in any event within 4 hours of the refusal and the record must be made immediately available to police, trading standards or licensing authority staff upon reasonable request. The refusals record shall be either electronic or maintained in a bound document & retained for at least 12 months from the date of the last entry.
 - 9 All staff engaged in the sale or supply of alcohol on the premises shall have received training in relation to the protection of children from harm (including under-age sales), how to recognise drunkenness and the duty not to serve drunk persons. Refresher training shall be carried out at least every six months. Training records shall be kept on the premises (or otherwise be accessible on the premises) for a minimum of 12 months and made immediately available to police, trading standards or licensing authority staff upon reasonable request.
- 5.10 There has been one representation received from a Responsible Authority. Mr Simon Barnes has submitted a representation on behalf of Essex Police (Licensing) on the grounds that granting the application in its original form would result in the undermining of the crime and disorder licensing objective. Although Mr Barnes' recommendations have been agreed with the applicant through consultation, he reserves his right to clarify his position and provide further information to the Sub-Committee should it be required. Mr Barnes' representation, together with correspondence detailing recommendations to be attached as conditions agreed with the Police, is attached at **Appendix 3**.
- 5.11 There has been one representation against the application received from Mr Sam Coe, a local resident. Mr Coe refers to the number of fights and unpleasant scenes already experienced in the High Street bars and the addition of a further licensed premises is likely to cause further anti-social behaviour and public nuisance and have an impact on the children of the families living in nearby

Culyers Yard. Mr Coe's representation, together with correspondence clarifying the terms of the application, is attached at **Appendix 4**.

Statement of Licensing Policy

5.12 The following Brentwood Borough Council Statement of Licensing Policy control measures relate to the prevention of public nuisance state:

- 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 and protect the amenity of residents and other businesses from the consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.*
- 22.2 The Licensing Authority intends to interpret "public nuisance" in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.*
- 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.*
- 22.6 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include-*
 - (a) The location of premises & proximity to residential and other noise sensitive premises, such as hospitals, hospices & places of worship*
 - (b) The hours of opening, particularly between 23.00 and 07.00.*
 - (c) The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.*
 - (d) The design and layout of premises and in particular the presence of*
 - (e) The occupancy capacity of the premises.*
 - (f) The availability of public transport.*
 - (g) A 'wind down period' between the end of the licensable activities and closure of the premises.*
 - (h) A last admission time.*

Relevant Sections of the Secretary of State's Guidance

5.13 The following sections of the guidance may be relevant to this application:

- 8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. E.g., premises with close proximity to of the licensing objectives, and where there are no known concerns, acknowledge residential premises*

should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion this in their application.

6.0 LEGAL IMPLICATIONS

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.

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7.0 ENGAGEMENT/CONSULTATION

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

Officers from the Licensing Authority have made checks on the display of public notices and in a local newspaper and are satisfied that these requirements have been met.

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APPENDICES

- Appendix 1 - Application Form
- Appendix 2 - OS Street Plans & Images
- Appendix 3 - Representation from Responsible Authorities
Mr Simon Barnes – Essex Police Licensing Officer
- Appendix 4 - Representation from Other Parties – Mr Sam Coe