

Report to: Licensing Sub Committee

Date: 26 November 2019

Title: Application for a Premises Licence. 2 Old Court House, Friars Walk, Lewes

Report of: Director of Service Delivery

Ward(s): Lewes Bridge

Purpose of report: To consider representations made against the Premises Licence application submitted under the Licensing Act 2003 and make a decision on the application

Officer recommendation(s): To consider representations made against the Premises Licence application submitted under the Licensing Act 2003 and make a decision on the application

Reasons for recommendations: Relevant representations made within consultation period

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1 Introduction

- 1.1 Lewes District Council received a Premises Licence application submitted under the Licensing Act 2003 for the premises : Unit 2 Old Court House, Friars Walk, Lewes **Appendix 1**
- 1.2 The applicant is 'SK Restaurants (Sussex) Ltd'
- 1.3 The licensable activities applied for are:
- 1.4 Sale of alcohol for consumption on the premises from 9am to 10.30pm Monday to Sunday (with non standard timings on New Years Eve from 9am to 12.30am the following morning)
- 1.5 Live music (indoors) on New Years Eve from 11pm to 11.55pm
- 1.6 Recorded music (indoors) on New Years Eve from 11pm to 12.30am (the following morning)

- 1.7 Live and recorded music are deregulated within on-licensed premises authorised and open for the sale of alcohol from 08:00hrs to 23:00hrs for audiences up to 500. Live unamplified music does not need a licence anywhere and with no audience limit between 08:00hrs to 23:00hrs.
- 1.8 The applicant has submitted the following steps to promote the four licensing objectives.
 - 1.8.1 General
 - 1.8.2 The premises will trade as a New York style restaurant with associated bar area.
 - 1.8.3 All alcohol and late night refreshment will be served to tables by waiter/waitress apart from the bar area outlined in blue on the deposited plan.
 - 1.8.4 The prevention of crime and disorder
 - 1.8.5 CCTV shall be in use at the premises.
 - 1.8.6 The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.
 - 1.8.7 The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority.
 - 1.8.8 If the CCTV equipment (including any mobile units in use at the premises) breaks down, the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence, other responsible person, verbally informs the Licensing Authority and the Police as soon as reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonable practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.
 - 1.8.9 The premises Licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of an authorised officer of the Licensing Authority or a Constable.
 - 1.8.10 Public Safety
 - 1.8.11 CCTV shall be in use at the premises at all times
 - 1.8.12 The prevention of public nuisance
 - 1.8.13 The premises will display signage asking patrons to leave quietly.
 - 1.8.14 CCTV will be in operation outside the premises to the rear and front.

1.8.15 The Protection of Children from Harm

1.8.16 An approved proof of age scheme shall be adopted, implemented and advertised within the premises such as 'Challenge 25' whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.

1.8.17 Publicity materials notifying customers of the operation of the Challenge 25 scheme shall be displayed at the premises, including a Challenge 25 sign of a least A5 size at the entrance to the premises and where practicable at each point of sale.

1.8.18 The premises licence holder shall require the designated premises supervisor, or in his/her absence other responsible person, to keep an 'incident/refusals' logbook in a bound book in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The logbook is to be kept on the premises at all times and shall be produced to any authorised officer of the Licensing Authority or a constable when required.

1.9 If granted, the above (1.8.1 to 1.8.18) will be included on the Premises Licence as conditions, along with the mandatory conditions, and any conditions the Sub Committee may impose following relevant representations.

1.10 The application has been advertised in line with the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

2 Background information

2.1 Unit 2, The Old Courthouse is situated in Friars Walk in the centre of town close to the town precinct with its variety of retail and food business premises. Street and aerial views of the premises are attached at **Appendix 2**

2.2 There are residential properties within 50 meters to the south of the site in Friars Walk, and a new development of flats opposite called 'The Friars' comprising 24 Manhattan style apartments.

2.3 Behind the premises is a public car park comprising approximately 80 parking bays.

- 2.4 Above the premises is the Premier Inn accommodating a 62 bedroom hotel with its own restaurant facilities and an alcohol licence (issued in 2013) for Monday to Sunday until 12.30am (with residents permitted the sale of alcohol 24 hours).
- 2.5 Fuego Lounge is situated in Unit 1. This premises provides restaurant facilities and has an alcohol licence (issued in June 2017) for Sunday to Wednesday until 11pm, Thursday to Saturday until 12 Midnight.
- 2.6 Unit 2 was licensed in October 2015 to Aqua Italia Limited who operated a restaurant at this premises until its closure in early 2019. The premises licence during the period of this restaurant's opening was for the sale of alcohol for consumption on and off the premises Monday to Sunday from 10am to 12 midnight, and late refreshment Monday to Sunday 11pm to 12.30am (the following morning). The premises licence also allowed non standard timings for the sale of alcohol on each New Years Eve until 2am New Years Day, and for late night refreshment until 2.30am on New Years Day. This licence lapsed in July 2019.

3. **Representation received from Responsible Authorities:**

Police: Response received – provided steps offered by the applicant are attached to the licence if granted, they have no objection.

Environmental Health: No comment

Fire Officer: No comment

ESCC – Child Protection: No comment

Trading Standards: No comment

Health & Safety: No comment

Planning: No comment

Public Health: No comment

Home Office Immigration: No comment

- 3.1 A copy of the Police response is in **Appendix 3**

4. **Representation received from others**

- 4.1 There have been 5 emails of objection regarding this application from members of the public. These have been submitted on the grounds that the application will undermine the licensing objectives of public nuisance and crime and disorder **Appendix 4**

5. **Mediation**

- 5.1 On the basis of the representations received and the opinions expressed, it is considered unlikely that this application will be successfully mediated before the Sub Committee Hearing.

6 **Licensing Sub Committee Considerations**

- 6.1 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the Licensing Authority must give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives
- The representations presented by all the parties
- The Home Office Guidance issued under Section 182 of the Licensing Act 2003
- The Lewes District Council Statement of Licensing Policy
- Any other relevant legislation

7 Licensing Policy Considerations:

7.1 Lewes District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing act 2003. It covers the licensable activities for retail sale of alcohol, live and recorded music, which is the subject of this application **Appendix 5**

7.2 The aims of the Policy are to secure the safety and amenity of residential communities, to help ensure a sustainable environment and provide regulation of the cultural/entertainment industry, and to promote the four Licensing Objectives of the Act; namely:

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

7.3 The three guiding principles (set out in Paragraph 4 of the Licensing Policy) adopted by the Council as the Licensing Authority serve as a general guide to the Council when it carries out its licensing functions.

7.4 In each case that arises following representation, the Policy states that the Council will:

- Consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the business involved and the rights of residents to peace and quiet.
- Examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation.
- Consider restricting the hours of trading in cases where there are good grounds for believing that the licensing objectives will be or are being undermined.

8 National Guidance

8.1 Relevant sections relating to the Home Office Guidance issued under section 182 of the Licensing Act are attached.

8.2 Particular reference should be made to **Appendix 6** paragraph 2.21
These sections cover:

- The Licensing Objectives **Appendix 6**

- Hearing Regulations **Appendix 7**
- Conditions **Appendix 8**

9 Other Relevant Legislation

9.1 The Licensing Sub Committee should be mindful of requirements and responsibilities placed on them by other legislation. These include, but are not limited to, having due regard to the Equality Act 2010 and the Human Rights Act 1998.

10 Options

10.1 When considering this application for a Premises Licence, the following options are available to the Sub Committee:

- Grant the Licence in the same terms as it was applied for
- Grant the Licence, but modify the conditions
- Grant the Licence, but modify the hours of licensable activity
- Refuse to issue the Licence

11 Rights of Appeal

11.1 Under Section 181 and Schedule 5 of the Act, there is a right of appeal to the Magistrates' Court in respect of applications for new licences. This right of appeal is open to both the applicant and to any person who has made relevant representation. The appeal application must be made within 21 days of the written notification of the Sub Committees decision.

12 Recommendation

12.1 Members are requested to determine the application made by SK Restaurants (Sussex) Ltd for a new Premises Licence. Members are requested to give reasons for their determination.

13 Financial appraisal

13.1 There are no financial implications associated with this report.

14 Legal implications

14.1 This Report was considered by the Legal Section on 5 November 2019 (IKEN-8697-MW).

15 Risk management implications

15.1 There are no risks associated with the content of this report.

16 Equalities & Fairness Screening

16.1 An Equality Analysis is not constructive in this instance.

17 Sustainability and/or carbon reduction implications

17.1 There are no sustainability and/or carbon reduction implications associated with this report.

18 Appendices

- Appendix 1 - Application for a Premises Licence
- Appendix 2 - Street and Aerial views of premises showing proximity to residential premises
- Appendix 3 - Police response to consultation
- Appendix 4 - 5 x email representations
- Appendix 5 - Lewes District Council Statement of Licensing Policy
- Appendix 6 - National Guidance – The Licensing Objectives
- Appendix 7 - Hearing Regulations
- Appendix 8 - National Guidance – Conditions