

Report to: Licensing Sub-Committee

Date: 9th June 2022

Title: Application for a Review of a Premises Licence for Next Door Bar, 8 Bolton Road, Eastbourne, BN21 3JX

Report of: Director of Service Delivery

Ward(s): Meads Ward

Purpose of report: To review the premises licence for Next Door under the Licensing Act 2003.

Officer recommendation(s): To review the licence granted to the premises known as Next Door under the Licensing Act 2003.

Reasons for recommendations: To determine the review application submitted by Environmental Protection and representations made within consultation period

Contact Officer(s): Name: Jade Marshall
Post title: Specialist Advisor - Licensing
E-mail: jade.marshall@lewes-eastbourne.gov.uk
Telephone number: 07984 552275

1 Introduction

- 1.1 Eastbourne Borough Council received an application for a review of a Premises Licence under the Licensing Act 2003 for Next Door, 8 Bolton Road, Eastbourne, BN21 3JX from Environmental Protection on the 26th April 2022. The application for review is included along with additional evidence at **Appendix 1**.
- 1.2 At any stage, following the grant of a premises licence, a Responsible Authority or any other person, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 1.3 Environmental Protection have called this review due to complaints from neighbours in regards to noise coming from the outside areas. Created by both regulated entertainment and customers.
- 1.4 Environmental Protection have proposed an additional condition on page 5 of the Review application, see below:

All Licensable activity outside the Next Door bar premises is brought in house from 23.00 hrs till 02.00 hrs (closing hour).

1.5 The grounds for the review relate to the following Licensing Objective:

- Prevention of Public Nuisance.

2 Consultation Process

2.1 The Licensing Act 2003 requires the Licensing Authority to put up public notices of the review details outside the premises and outside the Town Hall for 28 days. All Responsible Authorities have also been consulted as part of the process. There was a consultation period of 28 days, from the 27th April 2022 until midnight on the 24th May 2022, for representations to be made. The public notice is attached at **Appendix 2**.

3. Supporting Representations Received

3.1 During the consultation period 4 representations were received and related to the Prevention of Public Nuisance. All of which have asked to remain anonymous and you will find their redacted representations at **Appendix 3**. Set out at Exempt **Appendix 4** are the names and addresses of those making representations for the information of the Committee.

3.2 It is considered that not all the information provided within these representations is valid within the Licensing Act 2003 and the Licensing Objectives.

3.3 No other Responsible Authorities made a representation.

4 Background of Premises

4.1 The premises was first issued a premises licence on the 28th November 2005 for the Sale by Retail of Alcohol, Live and Recorded Music.

4.2 Opening Times Monday to Sunday 10:00hrs until 02:00hrs.

Sale by retail of Alcohol Monday to Sunday 10:00hrs until 01:30hrs
On and Off the premises.

Live Music Sunday 19:00hrs until 23:00hrs
Indoors Only.

Recorded Music Monday to Sunday 10:00hrs until 02:00hrs
Indoors Only.

4.3 The current Premises Licence can be found at **Appendix 5**.

4.4 Unfortunately due to the premises licence being historic the Licensing Team have no plan on file. Therefore Members are provided with a screenshot of the premises from Google maps to show the outside areas. This can also be found at

Appendix 5 and is indicated by the blue arrow.

- 4.5 There have been no variations to the premises licence since it was originally granted.
- 4.6 A transfer to the current Premises Licence Holder, M M Singh Ltd, was made on the 23rd July 2021. The current Designated Premises Supervisor is Mr Manasdeep Singh.
- 4.7 A Community Protection Warning letter has also been issued to the premises on 25 March 2022.
- 4.8 There are no complaints on the Licensing Team's records prior to the Review being called. There has been one complaint received after the Review was submitted and is being looked at by the Licensing Team.
- 4.9 However, the licence states, under the heading All Licensing Objectives on page 8 of the current licence below, a condition:
2. The garden areas at the front and side of the premises shall not be used after 00:00hrs. No music shall be played in the outside areas of the premises.

5. The Decision Making Process - The Licensing Objectives

- 5.1 At this hearing the Licensing Sub Committee must:
- Consider the application made in accordance with Section 51 of the Licensing Act 2003;
 - Consider any relevant representations;
 - Take such steps (if any) as are considered necessary for the promotion of the Licensing objectives.
- 5.2 The Sub-Committee are asked to note the procedures relating to this hearing which are contained in The Licensing Act 2003 (Hearing) Regulations 2005 (as amended).

6. Eastbourne Borough Council's Statement of Licensing Policy & Section 182 Guidance

- 6.1 Copies of the Council's Statement of Licensing Policy have previously been circulated to Members. A copy is also retained in the Members' Room.
- 6.2 Whilst each application will be considered on its merits, the Licensing Sub-Committee will act to promote the four licensing objectives and have due regard to:
- Eastbourne Borough Council's Statement of Licensing Policy 2019 - 2024.
 - Section 182 Guidance issued by the Home Office.
- 6.3 Eastbourne Borough Council's Statement of Licensing Policy outlines the matters that the Authority will consider when determining matters under the

Licensing Act 2003. An overview appears below and are numbered as in Policy.

29.3 Revocation or suspension of premises licences or certificates will normally be considered where offences, such as sale of alcohol to persons who are drunk or sale of alcohol to persons under 18, occur on a regular basis. Review proceedings are often the last stage in a process where other steps have failed to address the issues that may arise:

- Action needed should seek to promote the licensing objectives but be balanced against the financial impact on the business.
- Action should be proportionate.
- Action should support the local community safety, crime reduction and drugs strategies, particularly those relating to alcohol misuse.

29.6 Section 182 Guidance, the Guidance, issued in connection with the Licensing Act 2003 stipulates that any representation made must be in writing, relate to particular licensed premises and be relevant to the promotion of the four licensing objectives.

29.7 The value of detailed evidence to support a representation cannot be over emphasized. Persons making a representation can attend the Review hearing. The person making the representation can amplify this at the hearing, but not extend this to other matters outside of the original representation.

29.8 Partnership working and warnings:

The Guidance further states that the promotion of the licensing objectives relies heavily upon partnership working with licence holders, authorised persons, any other person and Responsible Authorities in the pursuit of common aims and objectives. Reviews should not be used as a mechanism to create divisions between these groups to the extent that it undermines the benefits of co-operation and partnership working.

The Guidance recognises that it would be good practice for authorised persons and responsible authorities to give licence-holders early warning of their concerns about problems identified at the premises or in the vicinity of the premises where this can be linked back to the site and of the need for improvement. Failure to respond to these warnings or a Premises Action Plan is expected to lead to a decision to request a review of the premises licence or certificate.

7. Prevention of Public Nuisance (numbered as per Statement of Licensing Policy (SoLP))

14.1 The Licensing Authority will require operators to demonstrate how matters will be addressed to limit public nuisance, prevent disturbance and protect amenities.

- 14.2 In considering an application, the Licensing Authority will consider the adequacy of proposed measures to remove or effectively manage the potential for noise, nuisance and anti-social behaviour.
- 14.3 Amplified music or other entertainment noise from within the premises shall be inaudible within any residential premises. The test for compliance with 'inaudibility' will be that noise should be no more than barely audible outside of nearby business and residential properties.
- 14.4 The Licensing Authority will take into consideration a range of issues, and consider the imposition as appropriate of conditions, including:
- The proximity of residential accommodation.
 - The type of use proposed, including the likely numbers of customers, proposed hours of operation, nature of regulated entertainment and the frequency of activity.
 - Steps taken or proposed to be taken to prevent noise, disturbance and vibration breaking out from the premises. This may include music, noise from ventilation equipment, and human voices.
 - Steps taken to prevent disturbance by customers arriving at or leaving the premises will also need to be detailed. This will usually be of greater importance between 10.30 p.m. and 7 a.m. than at other times of the day.
 - The steps taken or proposed to be taken by the applicant to prevent customers queuing. If queuing is inevitable, then queues should be diverted away from neighbouring premises and residential accommodation or be otherwise managed to prevent disturbance or obstruction.
 - The steps taken to ensure staff and customers leave the premises quietly, including the provision of appropriate "leave quietly" signage.
 - Arrangements made or proposed for parking by customers specific to the licensed premises where relevant, and the effect of parking by patrons on local residents.
 - The provision for public transport in the locality, including taxis and private hire vehicles for customers to facilitate dispersal.
 - The level of likely disturbance from associated vehicular movement.
 - The delivery and collection areas and delivery/collection times.
 - The siting of external lighting, including security lighting which may cause light pollution and/or disturbance to neighbouring properties.
 - The impact on refuse storage and litter.
 - The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present premises licence operators.
 - The history of the applicant in controlling anti-social behaviour and preventing nuisance.
 - The generation of odour, e.g. from the preparation of food.
 - Any other relevant activity likely to give rise to nuisance.
 - Any representations made by the Responsible Authorities or other relevant agency/representative.
 - The use and control of gardens and other open-air areas.

14.5 Such measures may include:

- Keeping windows and doors shut save for access and egress.
- The installation of soundproofing, air conditioning, acoustic lobbies, acoustic devices and sound limitation devices.
- Operators to undertake regular checks and assessments in the vicinity of the premises and take steps to limit disturbance and noise breakout
- Limiting the number of patrons at any one time in any external areas, particularly where it is in close proximity to residential accommodation.

7.1 Although the above section from the SoLP mentions an application, the Officer believes it is still relevant for a Review hearing.

8. Options open to the Sub-Committee

8.1 The Licensing Sub-Committee shall take the steps it considers appropriate for the promotion of the Licensing Objections and may:

- modify the conditions of the licence;
- modify the times licensable activities can take place;
- exclude a licensable activity.

Modified in the above context means altered or omitted or any new condition added, and also the above steps can be temporary, for a period of up to 3 months, or permanent.

- issue a warning;
- remove the Designated Premises Supervisor;
- take no action;
- suspend the licence for a period not exceeding 3 months, or
- revoke the licence.

8.2 In determining what, if any, conditions should be attached to a licence, these should only be imposed where it is considered appropriate and proportionate on a case-by-case basis. The applicant or any person may also suggest conditions to address concerns as a means to promote the Licensing Objectives. The Sub-Committee may not impose any condition unless its discretion has been exercised following receipt of a relevant representation and is satisfied that it is appropriate to promote one or more of the licensing objectives.

9. Right of Appeal

9.1 An appeal made to the Magistrates' Court within 21 days of the appellant being notified of the decision. An appeal may be made by the applicant for the review, the premises licence holder or any other person who has made a relevant representation.

9.2 The determination of the Licensing Sub Committee will have no effect until the end of the period for the appeal as passed or until the disposal of the appeal.

10. Financial

10.1 The cost of delivering the licensing function is fully covered by the Licensing fees.

10.2 A decision made by the Sub Committee may be appealed by any party to the proceedings to a Magistrates' Court. Costs associated with this matter and incurred by any party, may in certain circumstances be awarded against the Council.

11. Legal implications

11.1 Under section 51 Licensing Act 2003 a Responsible Authority or any other person may apply for a review of a premises licence. Under section 52, the licensing authority before determining the application must hold a hearing. At the hearing the Licensing Sub Committee must have regard to the application, and any relevant representations, take such steps as it considers appropriate for the promotion of the licensing objectives.

11.2 The remedial action, if any, should generally be directed to the concerns raised in the review application and should always be no more than is appropriate and proportionate to address the concerns.

11.3 The Legal section considered this report on 26 May 2022 (IKEN-11064-EBC-MW).

12 Risk management implications

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

13 Equality analysis

13.1 An Equality Analysis is not constructive in this instance.

14 Environmental sustainability implications

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

15 Appendices

- 15.1
- Appendix 1 - Application for review and supporting evidence under the Licensing Act 2003.
 - Appendix 2 - Public Notice.
 - Appendix 3 - Representations made by members of the public. (Exempt under Paragraphs 1 and 2 of Schedule 12a).

- Appendix 4 - Names and addresses of those making representations for the information of the Committee. (Exempt under Paragraphs 1 and 2 of Schedule 12a).
- Appendix 5 - Current premises licence and Google map screenshot of the premises.

16 Background papers

16.1 The background papers used in compiling this report were as follows:

- Section 182 Statutory Guidance to the Licensing Act 2003 available [here](#)
- Eastbourne Borough Council Licensing Statement 2019-2024 available [here](#)
- Human Rights Act 1998.
- Equality Act 2010.
- Crime and Disorder Act 1998.