

Meeting: Licensing Sub-Committee B
Date: 1 March 2024
Classification: Part 1
Key Decision: No
Title of Report: **Application to Vary the Premises Licence.
African Taste, 420 London Road, Westcliff-On-Sea, SS0 9LA**

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1. Executive Summary

Members are invited to consider an application by African Taste Restaurant Limited to vary their Premises Licence.

2. Recommendation.

2.1 That the Sub-Committee determines the application.

2.2 Should the Sub-Committee decide to approve the application, the relevant mandatory licence condition must be applied. (This is set out in Appendix 1).

2.3 Appendix 2 sets out conditions drawn from the current Premises Licence for the Sub-Committee's consideration.

3. Background.

3.1 The application relates to a premises located on the London Road at the junction with Valkyrie Road along a stretch of commercial units with some residential properties located above and in the adjacent road. Currently the restaurant holds a Premises Licence

4. Proposals.

4.1 The application was submitted to the Licensing Authority on the 20 December 2023.

4.2 Details of this application which are to be determined by the Sub-Committee can be briefly summarised as follows:

- a) To extend licensing and opening hours of the restaurant until 03:00 daily.
- b) This would allow the sale of alcohol, the provision of recorded music and the provision of late-night refreshment (from 23:00), daily from 11:00 to 03:00 the following day

- 4.3 The proposals are more fully documented in the application form which has been copied to Sub-Committee Members.

5. Application Procedures.

- 5.1 Copies of applications for a new premises licence are required by law to be sent to all of the "Responsible Authorities". They are also required to display a notice giving brief details of the application in a prescribed form at the application site, and to publish the same information in a newspaper circulating in the area.
- 5.2 One (1) representation was received from a local resident objecting to the application.
- 5.3 Two (2) representations were received from the Responsible Authorities, Licensing Authority and Environmental Protection Team. Copies of the representations have been provided to the Sub-Committee Members. In accordance with the legislation, all parties have been invited to attend the hearing.

6. Legal Implications.

- 6.1 Formal objections having been made and not withdrawn or resolved, the Licensing Authority is obliged to hold a hearing to consider them. Further, having regard to such representations, the Authority is required to take steps (if any) as it considers appropriate for the promotion of the Licensing Objectives.

Thus, the Authority may:

- a) Grant the licence, subject to conditions consistent with the operating schedule (modified as considered appropriate for the promotion of the Licensing Objectives) and subject to relevant mandatory conditions;
 - b) Exclude from the scope of the licence any of the licensable activities to which the application relates;
 - c) Refuse the application.
- 6.2 The Licensing Act 2003 requires that the Licensing Authority must carry out its functions under the Act with a view to promoting the Licensing Objectives. These 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.
- 6.3 In carrying out its licensing functions, the Licensing Authority must also have regard to:
1. Its Licensing Statement, and
 2. The guidance issued by the Secretary of State.

6.4 The Licensing Authority has, in accordance with the requirements of the Act, prepared and published a Statement of Licensing Policy, following formal consultation. Copies of this document, together with the statutory guidance, have been made available to all Licensing Committee Members.

7. Existing Licensing Controls

7.1 The premises currently benefit from an existing Premises Licence which permits the following activity and timings.

a) Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means:

Sundays to Thursdays	11:00 - 00:00
Fridays and Saturdays	11:00 - 00:30
On New Year's Eve	11:00 - 02:00

b) The provision of regulated entertainments comprising recorded may take place during permitted hours set out in condition 1) above.

c) The provision of late night refreshment may be provided during permitted hours. In this condition, permitted hours means:

Fridays and Saturdays	23:00 - 00:30
On New Year's Eve	23:00 - 02:00

d) The opening times are

Sundays to Thursdays	11:00 - 00:30
Fridays and Saturdays	11:00 - 01:00
New Year's Eve	11:00 - 02:30

7.3 A copy of the existing Premises Licence has been supplied to the Sub-Committee.

8. Background Papers.

8.1 Council's Statement of Licensing Policy.

9. Appendices

9.1 Appendix 1 - Mandatory conditions.

9.2 Appendix 2 - Conditions drawn from the current Premises Licence for the Sub-Committee's consideration.

APPENDIX 1

MANDATORY CONDITIONS

The Licensing Act 2003 lays down certain mandatory conditions which must be applied to Premises Licences. These are summarised below:-

1. No supply of alcohol may be made under the premises licence a) at a time when there is no designated premises supervisor in respect of the premises licence or b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. Any individual who carries out security activities at the premises must be licensed by the Security Industry Authority.
4. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:-

(a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to:-

(i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) Drink as much alcohol as possible (whether within a time limit or otherwise);

(b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:-

(i) The outcome of a race, competition or other event or process, or

(ii) The likelihood of anything occurring or not occurring;

(e) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

5. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

7. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

8. The responsible person shall ensure that:-

(a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:-

(i) beer or cider: ½ pint

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) Customers are made aware of the availability of these measures.

9. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the above condition —

- a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(1);
- b) “permitted price” is the price found by applying the formula— $P = D + (D \times V)$, where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(2)
10. Where the permitted price given by sub-section (b) of Condition 9 would (apart from this condition) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny
- (i) Sub-section (ii) applies where the permitted price given by sub-section (b) of sub-section (ii) on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
 - (ii) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
- 11 The admission of children to the exhibition of any film shall be restricted in accordance with the recommendations of the British Board of Film Classification.

APPENDIX 2

CONDITIONS DRAWN FROM THE CURRENT PREMISES LICENCE FOR THE SUB-COMMITTEE'S CONSIDERATION.

Note: the application indicates that all conditions are to be carried forward to the new hours requested, should they be granted.

- 1) The premises shall be run as a restaurant and the sale of alcohol for consumption on the premises shall be linked to the purchase of a substantial meal.
- 2) Substantial food and non-intoxicating beverages (including drinking water) shall be available throughout licensing hours.
- 3) The Licensee shall ensure that a minimum of 24 covers are maintained at all times.
- 4) Service of alcohol shall be by waiter/waitress only and shall be limited to persons seated at a table taking a substantial meal.
- 5) The Licensee shall ensure that a 'Challenge 25' scheme is operated, whereby any person who appears to be under 25 years of age is required to produce means of identification proving they are over 18 years of age. The only authorised means of identification shall be passport, UK photo driving licence or 'PASS' accredited card.
- 6) 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. The training must be given to a new member of staff before they are permitted to serve/sell alcohol. Written training records shall be kept on the premises for a minimum of 12 months and made immediately available to the Police or Licensing Authority staff upon request.
- 7) A refusals record shall be maintained at the premises which 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 and in any event within 4 hours of the refusal and the record must be made immediately available to the Police or Licensing Authority staff upon request.
- 8) The Licensee shall operate a zero tolerance policy with regard to the use/possession of drugs in the venue and shall advertise the same within the premises on posters and similar means.
- 9) An incident log shall be kept at the premises, and made immediately available to the Police or Licensing Authority staff upon 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.
- 10) The premises shall have installed and maintain a closed circuit television surveillance (CCTV) The system which at all times complies with the below requirements:
- i. CCTV shall 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 public areas including all entrances and exits;
 - 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;
 - iv. 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;
 - v. 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;
 - vi. 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 failings these are to be recorded immediately.
 - vii. In addition to any local storage of CCTV images; CCTV images shall be (at the close of opening hours or contemporaneously) uploaded to an off-site CCTV storage facility or to an off-site cloud based storage system and remain accessible for a period of 31 days. These images shall be capable of being made available in accordance with paragraph IV above in the event of an on-site system failure or access issue.
 - viii. Any failure of the CCTV system which cannot be rectified within 4 hours of discovery must be reported to Essex Police via e-mail to licensing.applications@essex.pnn.police.uk
- 11) The Licensee shall ensure that a suitably worded sign of sufficient size and clarity is displayed at the entrance to the premises and in the area of the alcohol display advising customers that CCTV is operating at the premises.
- 12) A written record shall be kept on the premises of all staff authorised to sell alcohol on behalf of either the Designated Premises Supervisor or Personal Licence Holder to include name and signature of each person. This record must be made available for inspection to the Police or Local Authority Officers upon request.

- 13) Where persons under 18 years of age are admitted to the premises, they shall be supervised by a responsible adult and proof-of-age scheme shall be enforced. Persons under 18 years of age are not permitted in the premises after 21:00 until trading commences on the following day.
- 14) In the event that any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children are provided, these shall be limited to such times when persons under 18 years of age are not present.
- 15) Such measures shall be implemented as may be reasonably required by the Licensing Authority to limit noise (being noise arising from regulated entertainment), to that of ambient noise levels at the external boundary of the premises.
- 16) Doors and windows shall be shut when music is playing.
- 17) The Designated Premises Supervisor and the general staff shall take all reasonable steps to prevent noise pollution from the premises.
- 18) No customers shall be permitted to take any drinking vessels outside of the premises. The Designated Premises Supervisor and staff shall take all reasonable steps to prevent this from happening. Bona-Fide off sales will be the only exception and these shall be in sealed containers /bottles.
- 19) There shall be no outside furniture besides a suitable removable ash tray or similar item.
- 20) A suitable removable cigarette bin shall be provided. This shall be taken inside at the close of trading.

The following three conditions were added at a previous Licensing Sub-Committee hearing.

- 21) A public notice, visible from the highway, shall be displayed giving the telephone number of a responsible person on the premises who shall be available should a member of the public wish to discuss any matter relating to the premises.
- 22) External bottle bins and external rubbish bins shall not be used or emptied between 21:00 to 09:00 the following day.
- 23) The smoking area shall be located on the forecourt in Valkyrie Road only.