

## **EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

**Committee:** Licensing Sub-Committee                      **Date:** 1 September 2020

**Place:** Virtual Meeting on Zoom                      **Time:** 10.00 - 11.05 am

**Members Present:** C P Pond (Chairman), S Heather, D Sunger and J M Whitehouse

**Other Councillors:**

**Apologies:**

**Officers Present:** K Tuckey (Licensing Team Manager), H Gould (Licensing Compliance Officer), R Ferreira (Assistant Solicitor), J Leither (Democratic Services Officer), G Woodhall (Democratic & Electoral Services Manager), and S Mitchell (PR Website Editor)

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### **17. WEBCASTING INTRODUCTION**

The Chairman made a short address to remind everyone present that the virtual meeting would be broadcast live to the internet and would be capable of repeated viewing, which could infringe their human and data protection rights.

### **18. DECLARATIONS OF INTEREST**

There were no declarations of interest made pursuant to the Council's Members' Code of Conduct.

### **19. PROCEDURES FOR THE CONDUCT OF A VIRTUAL MEETING**

The Sub-Committee noted the agreed procedure for the conduct of business and the terms of reference.

### **20. PROCEDURES FOR THE CONDUCT OF BUSINESS**

The Sub-Committee noted the agreed procedure for the conduct of business, as outlined in Article 8 in the Council's Constitution.

### **21. APPLICATION FOR A NEW PREMISES LICENCE - SPICE KITCHEN, 151B QUEENS ROAD, BUCKHURST HILL IG9 5AZ**

The three Councillors that presided over this application were Councillor C P Pond (Chairman), Councillor D Sunger and Councillor J M Whitehouse.

The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application was Stewart Gibson, Licensing Agent and Shamim Khan, the applicant. Also present was Professor Marisa Papaluca, objector ND Ronan McManus for Essex Police. The Chairman then introduced the Members and Officers present and outlined the procedure that would be followed for the determination of the application

**(a) Application before the Sub-Committee**

The Licensing Compliance Officer, H Gould informed the Sub-Committee that an application for a new Premises Licence had been received by S G Licensing Limited on behalf the applicant Shamim Ahmed Khan at the Spice Kitchen, 151B Queens Road, Buckhurst Hill IG9 5AZ.

This premises was a hot food take away business to include the sale of alcohol for consumption off of the premises from Monday to Sunday 11.00 – 23.00 hrs for which the premises opening hours were the same.

The application was received on the 16 July 2020 and had been properly advertised at the premises and in a local newspaper, all residences and businesses within a 150 metre radius were consulted. The authority had received one representation from Councillor G Chambers of Buckhurst Hill West and one representation from the Department of Primary Care and Public Health. Responses from Trading Standards and Essex County Fire and Rescue Service had no objections.

Essex Police and the EFDC Senior Environmental Enforcement Officer have agreed conditions with the applicant which can be found attached to the agenda.

**(b) Presentation of the Application**

Mr Gibson advised that this application was for the inclusion of the sale of alcohol for consumption off the premises for a hot food takeaway Indian restaurant name Spice Kitchen. Currently the premises was trading offering hot food available for takeaway or delivery service. The application before you today was to add the sale of alcohol to a takeaway or delivery service with a substantial food order to help the business flourish in the extremely difficult circumstances that the Pandemic has brought about.

There were representation from Essex Police and Environmental Health to which we have agreed conditions with both. For clarity the condition agreed with Essex Police was that the sale of alcohol must be in a sealed container for off-sales and sold in connection with a substantial food order. Therefore alcohol was not freely available to anyone walking in off the street and not freely available for someone phoning up for an order of alcohol only, there has to be a food order connected to the sale of alcohol. Conditions were also agreed with Epping Forest District Council's Environmental Health department which stated that no table and chairs shall be provided outside of the licensed area for the use of customers. I would state that this was a takeaway or home delivery service and there would be no tables and chairs supplied outside the business for customers.

The hours the premises currently operated were from 11.00-23.00hrs 7 days a week and Mr Khan was applying to add the sale of alcohol to the current operating schedule which would make the premises licensable.

Mr Gibson advised that he would like to address the two objections received, one was to reduce the operating hours on a Sunday to close at 22.00hrs and he could see no basis or reason of fact for that as the premises currently trades to 23.00hrs on a Sunday with no problems as it stands, therefore why should the premises have to cut their trading hours by an hour on a Sunday when they have been trading to 23.00hrs with no problems. The second objection points out that introducing alcohol for take away may introduce public nuisance. If someone were to pick up a substantial meal with some alcohol how was that causing a public nuisance, Mr Khan has advised me that 90% of his business was home delivery therefore I cannot see where the issue for public nuisance was going to arise in the vicinity of the premises.

Other concerns raised stated that the premises was near a children's nursery, a school and a library but I would like to point out that this was an off sales application for alcohol to be consumed away from the premises with food.

The delivery staff will be trained fully trained in their responsibilities with regard to the sale of alcohol, anyone who appears to be under the age of 25 will be challenged to provide ID in the form of a passport, driving licence, proof of age card with a PASS hologram or a Military ID, if the customer cannot provide identification then no sale will take place. Records of training will be kept at the premises for inspection.

**(c) Questions for the Applicant from the Sub-Committee**

Councillor D Sunger stated that he was for the application but thought that the premises should close at 22.00hrs on a Sunday as people had to get to work on Monday. Mr Gibson advised that currently food was delivered Monday to Sunday from 11.00-23.00hrs and the point raised was why would you want alcohol to be delivered at 23.00hrs on Sunday when Monday was a working day, well surely you could apply that also to Tuesday, Wednesday and Thursday evenings as the next days were also working days, Mr Gibson failed to see how Sunday became a special day because the next day was a working day. There was no evidence of any unrest in the area at the weekends, it would have been highlighted by the Police if there had been so, therefore Mr Gibson stated that in his opinion there was no reason to impose such a condition under the licensing conditions.

R Ferreira, the Council's legal representative reminded the Sub-Committee that they could only impose conditions which could be enforced and in order to impose conditions you must have the evidence to back it up and not just speculate what might happen.

Councillor J Whitehouse stated that the applicants agent mentioned that alcohol would be sold with a substantial meal, what did the applicant consider as a substantial meal to be. Mr R McManus, Essex Police advised that the Police did not want this premises to become an unofficial off-licence by buying little or no food and then seeking a large alcohol order as identified by the applicants agent, therefore it was a meal with some alcohol attached and not alcohol with some poppadum's.

Councillor C P Pond asked if they would be using motorbikes, cars or both to deliver the orders and where would they park whilst waiting for the orders to be prepared. Mr Khan advised that all deliveries were made by cars and that premises had a car park behind the premises where the drivers would park and wait.

**(d) Questions for the Applicant from the Objector**

There were no questions from the Objector.

**(e) Presentation from the Objector**

Professor Marissa Papaluca, objector, stated that her objection was based on the grounds of children shall be protected from harm and the prevention of public nuisance. The applicant's premises were very close to a busy local children's nursery and the local library where children's play groups met and therefore consumption of alcohol in the vicinity was not considered appropriate for their safety. She stated that there was a similar Indian food shop opposite and that they did not trade in alcohol. Initiating the trading of alcohol for take away in the area may introduce public nuisance.

**(f) Questions for the Objector from the Sub-Committee**

The Sub-Committee had no questions for the objector.

**(g) Questions for the Objector from the Applicant**

The Applicant had no questions for the objector.

**(h) Closing Statement from the Applicant**

Mr Gibson stated that the premises know as Spice Kitchen was a take away/delivery service which had been trading from 11.00-23.00hrs Monday to Sunday and the application was to add the supply of alcohol to the current operating schedule.

**(k) Consideration of the Application by the Sub-Committee**

The Chairman advised that the Sub-Committee would go into private session to consider the application.

During their deliberations in private session the Sub-Committee received advice from the Legal Officer present on the options that were available to them and that any conditions imposed must be appropriate, be capable of being enforceable and must not undermine the licensing objectives and also each case must be determined on its own merits.

**RESOLVED:**

The decision of the Sub-Committee was that the application for a new premises licence in respect of: Spice Kitchen, 151B Queens Road, Buckhurst Hill IG9 5AZ, be granted subject to:

- (1) the conditions as submitted by the applicant on 14 July 2020;
- (2) the condition which had previously been agreed between the applicant and Peter Jones, Essex Police, Licensing Officer, Epping Forest and Harlow as set out on page 38 of the agenda relating to the licensing objectives; and
- (3) the conditions which were previously agreed between the applicant and Michael Richardson, Senior Environmental Enforcement Officer for Epping Forest District Council as set out on page 39 of the agenda relating to the prevention of public nuisance;

which we consider are reasonable and proportionate and will not undermine the licensing objectives.

Also attached are the mandatory conditions contained in Sections 19-21 of the Licensing Act 2003.

Applicants and Objectors were reminded of their right to appeal to the Magistrates Court within 21 days of the date of the written notification of this decision.

**CHAIRMAN**