

Committee: Licensing and Environmental Health Committee

Agenda Item

2

Date: 20th March 2013

Title: Application for the grant of a Premises Licence - Bretts Restaurant and Bar White Roding.

Author: Murray Hardy, Licensing Officer.

Item for decision

Summary

1. This report sets out an application for the grant of a Premises Licence in respect of the above. Representations have been made to this application so therefore this matter has been referred to the Committee for deliberation.

Recommendations

2. The application is determined

In the event of an appeal against the decision of the Licensing Authority, then a member is nominated to attend at Court.

Background Papers

3. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Operating Schedule
Representations from an interested party
Location of premises
Plan of premises

Impact

- 4.

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| Communication/Consultation | Details of the application was conveyed to Members of Uttlesford District Council, The Parish Council, Statutory Bodies and adjoining residents |
| Community Safety | None |
| Equalities | None |
| Health and Safety | None |
| Human Rights/Legal | In the event that an applicant, responsible |

Application for the grant of a Premises Licence - Bretts Restaurant and Bar White Roding

Licensing and Environmental Health Committee, 20 March 2013, item 2

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| Implications | authority or interested party is dissatisfied with the decision of the committee there is a right of appeal to the Magistrates Court. |
| Sustainability | None |
| Ward-specific impacts | The Rodings being the ward within which the premises are situated |
| Workforce/Workplace | None |

Situation

5. Bretts Restaurant and Bar is situated on Chelmsford Road, White Roding, and can be described as being on the edge of the village.
6. The premises can be described as a restaurant and bar which shares a site with a garden centre. This does appear to be a popular venue especially during the summer months. Parking for cars is in an area at the front of the building.
7. The applicant for this new premises licence is John Judge who will also be the designated premises supervisor when he receives his personal alcohol licence from Chelmsford Borough Council.
8. In accordance with the Licensing Act 2003 where an applicant submits documentation for the grant of a premises licence then included must be an operating schedule. This demonstrates how the licensing objectives will be met and also seeks to outline what licensable activities are sought
9. The licensable activities being sought in respect of this application are listed below
 - (a) Live Music indoors only on every day of the week between the hours of 12 noon to 12 midnight.
 - (b) Recorded Music indoors only on every day of the week between the hours of 12 noon and 12 midnight.
 - (c) Performance of Dance indoors only on every day of the week between the hours of 12 noon and 12 midnight.
 - (d) The sale by retail of alcohol for consumption both on and off the premises on every day of the week between the hours of 12noon and 12 midnight.
 - (e) The hours the premises are open to the public will be from 12noon to 12 midnight on every day of the week.

Application for the grant of a Premises Licence - Bretts Restaurant and Bar White Roding

Licensing and Environmental Health Committee, 20 March 2013, item 2

10. The operating schedule indicates the following measures will be taken to promote the licensing objective regarding the prevention of crime and disorder

Refusal to serve alcohol to a person who appears to be drunk and any person acting in a disorderly manner will be asked to leave the premises.

11. The operating schedule indicates the following measures will be taken to promote the licensing objective regarding public safety

A current fire certificate is in force for the premises. Exit signs to be illuminated at night. A First Aid Box is available for use at the premises. A maximum of 100 persons to be on the premises at any one time.

12. The operating schedule indicates that the following measures will be taken to promote the licensing objective regarding the prevention of public nuisance.

Notices to be displayed asking customers to leave quickly and quietly at night. Complaints of noise to be investigated immediately and action taken when deemed necessary.

13. The operating schedule indicates that the following measures will be taken to promote the licensing objective regarding the protection of children from harm.

A Challenge 25 policy will be adopted to persons under 18 years of age. A register will be kept where alcohol is refused to a person under the age of 18. The applicant will apply to become a member of the relevant Pub Watch Scheme.

14. Copies of this application have been served on all of the responsible authorities who have made no representations.

15. Representations have been received from an interested party based on the licensing objective that relates to the prevention of public nuisance.

16. In carrying out the statutory function, the Licensing Authority must promote the licensing objectives as defined in the Licensing Act 2003:-

The prevention of crime and disorder
Public safety
The prevention of public nuisance
The protection of children from harm

17. The decision that the Committee can make for this application is to

(a) grant the licence subject to—

(i) the conditions mentioned in subsection (2) (a) modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and

Application for the grant of a Premises Licence - Bretts Restaurant and Bar White Roding

Licensing and Environmental Health Committee, 20 March 2013, item 2

- (ii) any condition which must under section 19, 20 or 21 be included in the licence;
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the premises supervisor;
 - (d) to reject the application.
- 18 When determining an application due regard should be given to the Council's licensing policy and the Secretary of State's Guidance issued in accordance of the Act.
- 19 The relevant sections of the Council's licensing policy are:-
- 1.19 When following the receipt of representations the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use licensing regime to achieve other outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the local planning authority. However, applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned.
 - 5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
 - 5.2 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.
 - 5.3 Applicants need to be clear that the Licensing Authority may apply stricter conditions, including controls on licensing hours where licensed premises are in or near residential areas and where relevant representations have been received. Conversely, premises which can demonstrate that they have effective measures planned to prevent public nuisance, may be suitable for 24 hour opening.
 - 5.6 If representations are made 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

Application for the grant of a Premises Licence - Bretts Restaurant and Bar White Roding

Licensing and Environmental Health Committee, 20 March 2013, item 2

public nuisance, relevant to the individual style and characteristics of their premises and events.

- 20 The relevant sections of the guidance issued by the Secretary of State are:-
- 20.1 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from the premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 20.2 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave.
- 20.3 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible bodies will need to balance these issues.
- 21 If the Committee in its discretion wishes to impose conditions, the only conditions that can be imposed are those that are appropriate and proportionate to promote the licensing objective to which the representations received. Equally the Committee cannot impose conditions that duplicate the effect of existing legislation.

Risk Analysis

22.

| Risk | Likelihood | Impact | Mitigating actions |
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| 1 Either no conditions are attached to | 2 There is a possibility that local residents | 2 Due to the availability of the review | In the event of complaints of public nuisance being received |

Application for the grant of a Premises Licence - Bretts Restaurant and Bar White Roding

Licensing and Environmental Health Committee, 20 March 2013, item 2

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| the licence or the conditions do not satisfactorily achieve the licensing objectives | will suffer from nuisance even if what appears to be appropriate conditions are imposed. | procedure any inconvenience which may be suffered by local residents would be relatively short lived. | after the grant of any licence being issued then Environmental Health Officers monitor the situation and apply for a review of the licence if it is considered necessary. |
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1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.