

<b>Committee:</b>	Licensing and Environmental Health	<b>Date:</b>	12 February 2018
<b>Title:</b>	Application for a Premises Licence Radhuni High Street Newport Essex CB11 3QX		
<b>Report Author:</b>	Amanda Turner Licensing team Leader Tel: 01799 510613	<b>Item for decision:</b>	Yes

---

## Summary

1. This report sets out an application for a new premises licence in respect of Radhuni, 56 High Street, Newport. CB11 3QX. Representations have been made to this application so therefore this matter has been referred to the Committee for deliberation.
2. Radhuni restaurant is situated in the centre of the village of Newport. A plan showing the location of premise in the village is attached as Appendix E.. A previous premises licence has been held at these premises under a different holder which was revoked by the Licensing & Environmental Health Committee on 6 December 2017.

## Recommendations

- 3 The application is determined

## Financial Implications

- 4 None

## Background Papers

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.

- (a) Premises licence application (Appendix A)
- (b) Plan of premises (Application B)
- (c) Representation from Statutory consultee (Home Office) (Appendix C)
- (d) Representation from Statutory consultee (Essex Police) (Appendix D)
- (e) Location map of premises (Appendix E)
- (f) Revised Guidance issued under section 182 of the Licensing Act 2003
- (g) Uttlesford District Council Statement of Licensing Act 2003 Policy 2017-22

## Impact

Communication/Consultation	Details of the application was conveyed to Members of Uttlesford District Council, The Parish Council, and adjoining residents
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	<p>Under Article 1 First Protocol to the European Convention on Human Rights peaceful enjoyment of their possessions which includes property. This right may be interfered with if necessary to control the use of property in accordance with the general interest. The imposition of conditions under the Licensing Act 2003 is a legitimate interference with this right in this context.</p> <p>In the event that an applicant, responsible authority or interested party is dissatisfied with the decision of the committee there is a right of appeal to the Magistrates Court.</p>
Sustainability	None
Ward-specific impacts	Newport being the ward within which the premises are situated
Workforce/Workplace	None

## Situation

- 5 In accordance with the Licensing Act 2003 where an application submits documentation for a premises licence then an operating schedule must accompany the application. This demonstrates how the licensing objectives will be met and also outlines what licensable activities are sought. These can be read on part M of the application form (appendix A).
- 6 The licensable activities being sought on the application are listed below:
 

(F) Recorded music	(indoors only)
Sunday to Thursday	11am to 10pm
Friday & Saturday	11am to 11pm

(J) Supply of Alcohol for consumption on the premises (on the premises)

Sunday to Thursday	11am to 10pm
--------------------	--------------

Friday & Saturday	11am to 11pm
-------------------	--------------

(L) The opening hours of the premises

Sunday to Thursday	11am to 10pm
--------------------	--------------

Friday & Saturday	11am to 11pm
-------------------	--------------

- 7 Copies of this application have been served on all of the statutory bodies which have attracted a representation from Home Office (Immigration Enforcement) based on the Crime and Disorder objective and from Essex Police also based on the crime and disorder objective. Details of these representations can be seen at Appendix C and Appendix D respectively.
- 8 In carrying out the statutory function, the Licensing Authority must promote the licensing objectives as defined in the Licensing Act 2003:-
  - a. The prevention of crime and disorder
  - b. Public safety
  - c. The prevention of public nuisance
  - d. The protection of children from harm
- 9 The decision that the Committee can make for this application is to
  - Grant the application
  - Modify the application by inserting conditions
  - Reject the whole or part of the application
- 10 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.
- 11 The Secretary of State's guidance issued in April this year includes new guidance in respect of immigration issues.
- 12 Paragraph 2.6 says 'The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters'.
- 13 This paragraph relates to a review but can also be considered for new premises applications: Paragraph 11.26 - 'Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best

efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder. '

- 14 Paragraph 11.27 says 'There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
  - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
  - for prostitution or the sale of unlawful pornography;
  - by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;
  - for the organisation of racist activity or the promotion of racist attacks;
  - **for employing a person who is disqualified from that work by reason of their immigration status in the UK;**
  - for unlawful gambling; and
  - for the sale or storage of smuggled tobacco and alcohol. '
- 15 The relevant sections of the Council's Licensing Policy are:
- 3.3 The prevention of crime includes the prevention of immigration crime, and the Licensing Authority will work with Home Office Immigration Enforcement in respect of these matters.
- The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. If representations are made to the Licensing Authority **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 reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.**
- 3.4 When addressing the issue of crime and disorder, the applicant should consider those factors that impact on crime and disorder. These may include:
- Underage drinking
  - Drunkenness on premises
  - Public drunkenness
  - Drugs

- Violent behaviour
- Anti-social behaviour
- Illegal working

## Control Measures

3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule in the event that representations are received, having regard to their particular type of premises and/or activities:

- (a) Effective and responsible management of premises
  - (b) Training and supervision of staff
  - (c) Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
  - (d) Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards e.g. 'Prove It' and/or 'new type' driving licences with photographs or adoption of industry best practice (e.g. Challenge 25 policy)
  - (e) Provision of effective CCTV and mirrors in and around premises
  - (f) Employment of Security Industry Authority licensed Doorstaff
  - (g) Provision of toughened or plastic drinking vessels
  - (h) Provision of secure, deposit boxes for confiscated items ('sin bins')
  - (i) Provision of litterbins and other security measures, such as lighting, outside premises
  - (j) Membership of local 'Pubwatch' schemes or similar organisations
  - (k) Right to work checks on staff and retention of documents
- 16 If the Committee in their decision wishes to impose conditions, the only conditions that can be imposed are those that are necessary and proportionate to promote the licensing objective relative to the representations received. Equally, the Committee should not impose conditions that duplicate the effect of existing legislation.
- 17 Secretary of State guidance provides in paragraph 10.8 and 10.10 the following guidance for members-
- 10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises.

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided... Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions.

- 18 If the Committee in their discretion wishes to impose conditions, the only conditions that can be imposed are those that are appropriate and proportionate to promote the licensing objective relative to the presentations received. Equally, the Committee cannot impose conditions that duplicate the effect of existing legislation.

## Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
1 Either no conditions are attached to the licence or the conditions do not satisfactorily achieve the licensing objectives the prevention of crime and disorder, the prevention of public nuisance, and the protection of children from harm.	2 There is a possibility that local residents will suffer from nuisance even if what appears to be appropriate conditions are imposed.	2 Due to the availability of the review procedure any inconvenience which may be suffered by local residents would be relatively short lived.	None

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.