

East Herts Council Report

Licensing Sub-Committee

Date of Meeting: 12 September 2023

Report by: Jonathan Geall, Head of Housing & Health

Report title: Application for a new premises licence for The Lounge,
Unit 25 The Maltings Business Centre, Roydon Road, Stanstead
Abbotts, Ware, Hertfordshire, SG12 8HG (23/0804/PL)

Ward(s) affected: Great Amwell & Stansteads

Summary

An application for a new premises licence has been received from SOKA Catering & Events Ltd. Representations against the application have been made by five interested parties. Where representations are received against an application, and not withdrawn, there must be a Licensing Sub-Committee meeting to decide that application. This report is to inform that decision.

RECOMMENDATIONS FOR LICENSING SUB-COMMITTEE

(a) The application for a new premises licence be decided.

1.0 Proposal(s)

- 1.1 Members of the Licensing Sub-Committee should determine the application to grant a premises licence to SOKA Catering & Events Ltd through consideration of the information contained in this report and appendices combined with submissions made at the Licensing Sub-Committee hearing.

2.0 Background

- 2.1 Under the Licensing Act 2003 and the council's Statement of Licensing Policy (herein 'the Policy') an application for a new or variation to a licence or certificate is granted by officers under delegated authority if no valid representations are received.
- 2.2 Where valid representations are received the council's discretion is engaged. A Licensing Sub-Committee has the delegated authority to determine applications for new and varied licences and certificates. This decision must be made whilst having regard to the Licensing Objectives, the council's own Statement of Licensing Policy and to statutory guidance issued by the Secretary of State under section 182 of the Licensing Act.
- 2.3 The Licensing Objectives are:
- Prevention of Crime and Disorder
 - Public Safety
 - Prevention of public nuisance; and
 - Protection of children from harm.

3.0 Reason(s)

- 3.1 The application for a new premises licence was submitted by SOKA Catering & Events Ltd on 22nd June 2023. The application has been correctly advertised and consulted upon as required by legislation and regulations.

- 3.2 The application requests following licensable activities to be granted:

Licensable Activity	Day	Hours applied for
Supply of alcohol (for consumption on & off the premises)	Sunday – Thursday	12:00 – 23:00
	Friday – Saturday	12:00 – 00:00
Late night refreshment	Friday – Saturday	23:00 – 00:00
Opening times	Sunday – Thursday	12:00 – 23:00
	Friday – Saturday	12:00 – 00:00

- 3.3 A redacted copy of the application form for a new premises licence is attached as Appendix 'A'.
- 3.4 Section 18 of the application form asks the applicant to describe any additional steps they intend to take to promote the four Licensing Objectives as a result of the application.
- 3.5 During the 28-day statutory public consultation period five representations were received from residents as interested parties. All the representations are attached as **Appendix 'B'**.

- 3.6 Between them, the representations suggest that the Prevention of public nuisance licensing objective would be undermined should the application be granted as applied for.
- 3.7 Following discussions with the Police in their role as responsible authority under the Licensing Act 2003, the applicant agreed to several additional conditions to mitigate the Police's concerns. The conditions agreed with the Police are at **Appendix 'C'**. As part of these agreed conditions the applicant agreed to remove one of the outside areas from their application.
- 3.8 A plan of the area in which the premises are located is attached as **Appendix 'D'**. This can be used to illustrate the location of the premises in relation to residents and other businesses.

Policy and Guidance

- 3.9 Section 6 of the **East Herts 'Statement of Licensing Policy'** (herein 'the Policy') details definitions of premises and location and operation of premises (differentiating between Town Centre locations and other areas). Under this section of the Policy the operation of The Lounge would be '*Café*'.
- 3.10 The proposed premises are not within the area designated as a 'Town Centre' in section 7.0 of the Policy as such this as 'other area'.
- 3.11 The table at 6.9 of the Policy details the council's approach to hours for licensed premises when it has received relevant representations to an application.

Notwithstanding that each application is considered on its own merits, the following hours would normally be granted to a 'Café' in this type of location when valid and relevant representations have been received:

Will generally be granted alcohol sales no later than 20:00.

3.12 Section 8 of the Policy states that:

8.1 The Licensing Authority must carry out its functions with a view to promoting the four Licensing Objectives, each of which has equal importance:

- *the prevention of crime and disorder,*
- *public safety,*
- *the prevention of public nuisance, and*
- *the protection of children from harm.*

8.2 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a means for solving all local problems. The Licensing Authority will therefore continue to work in partnership with all stakeholders and partners towards the promotion of the Licensing Objectives.

3.13 Paragraphs 8.6 to 8.39 of the Policy contain information on how the council considers applications in respect of each of the Licensing Objectives.

3.14 The Home Office issued '**Guidance issued under section 182 of the Licensing Act 2003**' (herein 'the Guidance') states at paragraph 9.37 and 9.38 that:

9.37 As a matter of practice, licensing authorities should seek to

focus the hearing on the steps considered appropriate to promote the particular Licensing Objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

9.38 *In determining the application with a view to promoting the Licensing Objectives in the overall interests of the local community, the Licensing Sub-Committee must give appropriate weight to:*

- the steps that are appropriate to promote the Licensing Objectives;*
- the representations (including supporting information) presented by all the parties;*
- this Guidance;*
- its own statement of licensing policy.*

3.15 Paragraphs 9.42-9.44 of the Guidance deal with how to determine actions that are appropriate for the promotion of the Licensing Objectives.

3.16 If Members are minded to impose conditions to mitigate concerns regarding the undermining of the Licensing Objectives, then Chapter 10 of the Guidance deals with conditions attached to premises licences. Paragraphs 10.8-10.10, 10.13-10.15 would be particularly relevant along with the East Herts '**Pool of Model Conditions**'.

Officer observations

- 3.17 Whilst the hours and activities applied for are later than those detailed in East Herts 'Statement of Licensing Policy' this is the starting point for this type of premises, this does not fetter the Sub-Committee's ability to decide on that shorter or longer hours or a refusal if they feel this is more appropriate in the circumstances of the individual application. The Policy is a starting point from which decisions can be made; should the Policy be departed from then members should clearly give their reasons for doing this.
- 3.18 Representation 1 – This representation is from a Parish Councillor who is also a nearby resident who has concerns around noise and the hours of operation.
- 3.19 Representations 2, 3, 4 and 5_– These representations are from nearby residents who have concerns, predominately around noise and the hours of operation. One representation states they were disturbed during an event of 11th June 2023. There was no authorisation in force at the time of the alleged event as such Members may wish to ask the applicant for more information on the type of event they were carrying out and the Interested Party on how they were affected by the alleged event.
- 3.20 The Guidance, at para 2.15 states in relation to Public nuisance:

The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering

the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

3.21 Environmental Health, whose area of expertise includes nuisance, did not make a representation against the application. It is therefore reasonable to conclude that Environmental Health do not believe that granting the licence, including the agreed conditions, would cause 'disproportionate and unreasonable' effects on local residents or businesses.

3.22 The Sub-Committee should consider whether the operation of the licensed premises would be likely to cause a public nuisance having considered the evidence presented and the location of the premises.

4.0 Options

4.1 *The actions open to the Licensing Sub-Committee are:*

- *grant the application as requested if they feel the application would promote and not undermine the licensing objectives; or*
- *grant the application but at the same time impose additional conditions or amend the activities or times requested; or*
- *if Members believe that there is evidence that shows that there are no steps that can be taken to ensure that the application sought would promote the licensing objectives*

then the application should be refused.

- 4.2 When the Licensing Sub-Committee gives its decision to those in attendance it should be made clear to all parties how much weight has been attached to each submission and why and what evidence members have relied upon when reaching their decision.
- 4.3 As stated in the Guidance, the council's decision should be evidence based, justified as being appropriate for the promotion of the Licensing Objectives and proportionate to what it is intended to achieve.

5.0 Risks

- 5.1 A decision on the application must be made and any decision made can be appealed at the Magistrate's Court. Therefore the Licensing Sub-Committee should ensure that when giving their decision on the application they give clear reasons on how and why they have made their decision. In doing so, the Council's ability to defend its decision is strengthened and the risk of its decision being over-turned on appeal is lessened, although, of course, this risk can never be entirely removed.

6.0 Implications/Consultations

- 6.1 As with any application for a new premise licence / variation of premise licence or review of a premise licence there is a 28 day public consultation.

Community Safety

The report details the four licensing objectives therefore

Community Safety will be considered when determining the application.

Data Protection

Where the appendices have shown personal data this has been redacted.

Equalities

Consideration has made to the Equality Act 2010 and the Public Sector Equality Duty in this report and will be considered during the Licensing Sub-Committee hearing.

Environmental Sustainability

No

Financial

There will be a cost to the authority in holding the Licensing Sub-Committee hearing; this will be covered by the existing budget.

There would be a cost if the decision of the Licensing Sub-Committee is appealed to the Magistrates Court and the authority chooses to defend that appeal.

Health and Safety

No

Human Resources

No

Human Rights

As with all applications and Council functions, the Human Rights Act 1998 has been considered in this report and will be considered during the Licensing Sub-Committee hearing.

Legal

All statutory requirements have been considered in preparing this report.

Specific Wards

Yes – Great Amwell & Stansteads

7.0 Background papers, appendices and other relevant material

- 7.1 Revised Guidance issued under section 182 of the Licensing Act 2003 (December 2022) -
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1125660/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_December_2022.pdf
- 7.2 East Herts Statement of Licensing Policy 2021-2026
<https://cdn-eastherts.onwebcurl.com/s3fs-public/2022-03/Statement%20of%20Licensing%20Policy%202021-26%20Mar%202022.pdf>
- 7.3 East Herts Pool of Model Conditions 2021
<https://eastherts.fra1.digitaloceanspaces.com/s3fs-public/2021-08/Pool%20of%20Model%20Conditions%202021%20%28accessible%29.pdf>
- 7.4 Appendix 'A' – Application for a New Premise Licence (redacted).
- 7.5 Appendix 'B' – Representations against the application..
- 7.6 Appendix 'C' – Conditions agreed with the Police.
- 7.7 Appendix 'D' – Location Plan.

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