

BABERGH DISTRICT COUNCIL

From: Corporate Manager Open for Business	Report Number: B/LAsub/19/1
To: Licensing Act 2003 Sub-Committee	Date of meeting: 14 June 2019

LICENSING ACT 2003 – HEARING TO DETERMINE AN APPLICATION MADE FOR THE GRANT OF A NEW PREMISES LICENCE – CAFFEINE LOUNGE, 14 BOREHAMGATE SHOPPING CENTRE, SUDBURY, SUFFOLK CO10 2EG

1. Purpose of Report

- 1.1 To report information to the Sub-Committee to enable the determination of an application made for the GRANT of a NEW premises licence for Caffeine Lounge Ltd in relation to the above premises.

2. Recommendations

- 2.1 The Sub-Committee must, having regard to the representations made, take such of the steps below (if any) as it considers appropriate for the promotion of the licensing objectives:

- to GRANT the licence subject to conditions which are consistent with the operating schedule accompanying the application - modified to such extent as the authority considers appropriate for promotion of the licensing objectives - and subject to any mandatory condition(s) which must be included in the licence;
- to EXCLUDE from the scope of the licence any of the licensable activities to which the application relates;
- to REFUSE to specify a person in the licence as premises supervisor; or
- to REJECT the application.

For these purposes conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

That the Sub-Committee determines this application at the hearing

3. Financial/Legal Implications

- 3.1 There is a statutory right of appeal to the magistrates' court for any party aggrieved by the decision taken by the Licensing Authority.

4. Risk Management

- 4.1 None, other than those that inherently apply to the Licensing Authority when carrying out its licensing functions. The four licensing objectives are prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.

5. Consultations

- 5.1 The application made has been subject to the statutory consultation period as prescribed by regulation. The notices advertising the application have been on display at the premises and published (East Anglian Daily Times – 26 April 2019 edition).

6. Equality Analysis

- 6.1 There are no equality impacts arising directly from the matters contained within this report.

7. Key Information

- 7.1 The hearing is to determine an application for the GRANT of a NEW premises licence made under section 17 of the Licensing Act 2003. A copy of the application including plans of the premises were received on 24 April 2019. These are attached as Appendix A to this report.

- 7.2 The application has been submitted by:

Caffeine Lounge Ltd (registered company number 11745088)

For the proposed licensed premises:

Caffeine Lounge, 14 Borehamgate Shopping Centre, Sudbury CO10 2EG

The designated premises supervisor DPS is:

William Ward (a personal licence holder with Braintree District Council)

- 7.3 The information provided with the application outlines that the sale and supply of alcohol (for consumption ON the premises only), films (indoors), indoor sporting events, recorded music (outdoors), late night refreshment (indoors) is proposed as part of a purpose designed e-sports lounge.
- 7.4 Full details of the proposed activities and timings are contained within the application form attached as Appendix A to this report.
- 7.5 The operating schedule steps proposed by the applicant to promote the licensing objectives are listed at Part M of the application form attached as Appendix A to this report.
- 7.6 A hearing is necessary to determine the application following receipt of relevant representations which have not been withdrawn. The Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives, which 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
- 7.7 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing Policy published under section 5 of the Act, and any

guidance issued by the Secretary of State under section 182 of the Act. The adopted Statement of Licensing Policy does not contain any Cumulative Impact Policy for any specific area of the district, as there is no evidential basis for it. However, the Licensing Authority is empowered to create a special policy should circumstances require it. The Licensing Authority's approach to this is specified in section 5 of the local Statement of Licensing Policy.

- 7.8 Where revisions are made to the legislation or guidance issued by the Secretary of State, there may be a period of time when the local Statement of Licensing Policy is inconsistent with these revisions. In these circumstances, the Licensing Authority will have regard, and give appropriate weight, to the relevant changes, guidance and its own Statement of Licensing Policy.
- 7.9 The Sub-Committee will also be aware of Human Rights Act 1998 considerations - specifically Article 6 and Articles 8 and 1 of Protocol 1 when determining applications for the variation of an existing licence.
- 7.10 Section 1.9 of the Council's Statement of Licensing Policy guides that the licensing process can only seek to control those measures within the control of the licensee or certificate holder (and their staff/agents). Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from such premises and beyond the direct control of the licence holder, nor is it a cure-all for community problems. If a licence holder has taken all appropriate steps to promote the licensing objectives whilst carrying on authorised licensable activities, and there is no causal link established between problem issues in the locality and a specific premises then it is unlikely that licensing processes are the mechanism to address them.
- 7.11 Paragraph 14.19 of Secretary of State Guidance issued under section 182 of the Licensing Act 2003 states that "there can be confusion about the difference between the "need" for premises and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.
- 7.12 The Licensing Authority's general approach to considering licensing hours is contained within section 6 of the local Statement of Licensing Policy, and section 7 guides on relevant representations.

8. Representations

- 8.1 The Licensing Authority has received **one** representation from the Environmental Health team as a Responsible Authority under the Licensing Act 2003, which is attached as Appendix B to this report.
- 8.2 The Police as a Responsible Authority under the Act have undertaken mediation on their areas of concern and the outcome of their mediation is attached as Appendix C to this report.
- 8.2 There have been **four** representations received made by 'other persons' (which includes local residents and businesses). These are attached as Appendix D to this

report. Two of those representations are in support of the application and two are objections.

9. Appendices

Title	Location
(a) Application for GRANT of NEW premises licence and accompanying documents/premises plans	Attached
(b) Representation received from 'Responsible Authority'	Attached
(c) Mediation undertaken by Suffolk Constabulary	Attached
(d) Representations received from 'Other Persons'	Attached
(e) Site plan of the location of the premises	Attached

10. Background Documents

10.1 The Licensing Act 2003

10.2 Guidance issued under Section 182 of the Licensing Act 2003

10.3 Babergh District Council's Statement of Licensing Policy

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