

LICENSING SUB COMMITTEE

7 APRIL 2022

Present: Councillors Sinden (Chair), Roberts and Roark.

14. APPOINTMENT OF CHAIR FOR THIS MEETING

In accordance with the terms of reference of the Licensing Committee, the council solicitor invited nominations for the appointment of Chair for the duration of the meeting.

Councillor Roberts proposed that Councillor Sinden should take the Chair, seconded by Councillor Roark.

RESOLVED (unanimously): that Councillor Sinden be appointed as Chair for the duration of the meeting.

15. APOLOGIES FOR ABSENCE

Apologies for absence received from Councillor Cox.

16. MINUTES OF PREVIOUS MEETING

RESOLVED – (Unanimously) that the minutes of the meeting held on 22nd December 2021 be approved as a true record.

17. DECLARATIONS OF INTEREST

Councillor	Minute	Interest
Roberts	18. Application for variation of a premises licence with representations, Carib De L'Afrique, York Buildings, Wellington Place, Hastings	Personal – Knows Mr Brett McLean and has spoken to him on numerous occasions
Sinden	18. Application for variation of a premises licence with representations, Carib De L'Afrique, York Buildings, Wellington Place, Hastings	Personal - Knows Mr Brett McLean and has spoken to him on numerous occasions

18. APPLICATION FOR VARIATION OF A PREMISES LICENCE WITH REPRESENTATIONS, CARIB DE L'AFRIQUE, YORK BUILDINGS, WELLINGTON PLACE, HASTINGS.

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The Licensing Lead Officer, Mr Bryant, gave an overview of his report to the Sub-Committee.

On the 18th February 2022 Hastings Borough Council received an application to vary the premises licence of 'Carib De L'Afrique' made under section 34 of the Licensing Act 2003. The application was referred to the Sub-Committee as a result of two representations received from responsible authorities. One from Mr Scrase, Senior Licensing Officer, Hastings Borough Council and one from Mr Ballam, Environmental Protection Officer, Hastings Borough Council.

The premises is located within Area 1A (Hastings Town Centre) of the Council Special Saturation Policy.

The Special Saturation Policy was reviewed and extended in 2022 and is contained within the council's Licensing Policy. The policy states that each application will be considered on its own merits and the council expects applicants to provide evidence to support the view that the application will not add to the existing problems of the area.

The application, which was submitted via an agent, makes no mention of the cumulative impact policy or the designated matrix.

Mr Scrase, Senior Licensing Officer, Hastings Borough Council gave a submission to the Sub-Committee regarding the application.

Mr Scrase said that although it would appear that the application for variation would only allow regulated entertainment from 23:00 hours, this could take place between 08:00 and 23:00 hours without requiring authorisation. Considering the activities being applied for it would be expected that certain conditions would have been asked to be removed. For example, the existing licence says that alcohol has to be sold ancillary to food, known as a restaurant condition. The application does not ask for this to be removed.

Mr Scrase said he had spoken to the applicant on a number of occasions and he advised that a planning application for change of use should be applied for before seeking a variation in the premises licence. It is understood that the applicant has not done this and the planning team have confirmed that planning consent would be required before any change of use could take place. The proposed use is not in accordance with the existing planning use of the premises. Enforcement action could be sought if no change in use is granted before the variation of licence is enacted.

The application for variation is asking for a considerable extension of hours, up to 03:00, and this is what puts the application in conflict with the council's Licensing Policy.

The Fire Service have inspected the premises but are unable to comment on the fire risk and safety measures as the required work on the basement has not taken place.

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Mr Scrase informed the Sub-Committee that page 2 of the council's Licensing Policy states that the council will generally not consider any premises application unless it can be demonstrated that the premises has either an appropriate planning application or certificate of lawful use. Exceptions will only be made where the applicant can offer compelling reasons as to why the application should be considered.

In conclusion Mr Scrase said he felt a representation was necessary as the application beaches the council's agreed Licensing Policy.

The Chair invited the applicant to ask questions of Mr Scrase. The applicant said that he now has his personal licence and has letters of support from the tenants of the building. There have been no issues raised by the police or neighbours in four years of trading.

Mr McLean, the applicant's representative, said no concerns had been raised by the police, ambulance service, Bar Watch or Hastings Business Improvement District (BID). Some of the concerns raised by the Licensing Officer have been addressed, and the applicant has a letter of support from the Hastings BID Manager.

Mr Scrase reiterated that if the variation is agreed the applicant would not be able to use the premises to its full extent until planning consent for a change of use had been granted.

The applicant, Mr Olujobi, made a submission to the Sub-Committee and said the application would enable a safe space for ethnic minority groups to come together. Mr Olujobi said he would submit a planning application for a change of use if the variation to the licence is granted as this is the most economical way to proceed. The restaurant has been operating for four years and has added a lot of value to the area, attracting people from out of town and becoming well regarded. Mr Olujobi said that the establishment will remain a restaurant, with alcohol served alongside meals. The restaurant offers a local alternative to traditional British food and attracts tourists from out of town into Hastings, enabling people to have a cultural experience.

Mr McLean said that the variation would give local residents the opportunity to experience good food late at night and will also provide a safe haven area in the town centre. This is the only local venue which is Caribbean and African based and the Sub-Committee needs to consider ethnic minority and diverse residents and visitors.

Mr Bryant clarified that the applicant did not have a personal licence from Hastings Borough Council. Further to this, the Sub-Committee were informed that two complaints were received regarding noise from the premises in 2019.

Mr Scrase asked the applicant why he needed a licence to operate until 03:00 hours. Mr Olujobi said he wanted to add value to the town by providing live music and a venue for older adults rather than younger people. The premises will give people choices in the town centre.

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Councillors asked questions of the applicant. The applicant confirmed that the basement area will have tables and chairs for dining. There will be door staff employed and people who are drunk will be denied entry.

The Licensing Officer summarised his report.

Mr Scrase summarised his representation.

The applicant and his representative summarised their representation.

The Sub-Committee retired to consider the application.

RESOLVED (unanimously):

We have listened carefully to all the submissions and we are bound to be directed by the promotion of the Licensing Objectives and Material Consideration of:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

On balance, the Sub-Committee accepts the evidence provided in support of the application and has decided to grant the variation of the licence.

In recognising the concerns raised about the specific issues under the Licensing Objectives, the licence is varied to include the following conditions:

1. The operating hours of the Premises are varied to be Monday to Sunday 07:00-00:00.
2. The hours for the supply of alcohol for consumption on the premises are to be Monday to Sunday 10:00 – 23:45.
3. The hours for late night refreshment are to be Monday to Sunday 23:00 – 00:00.
4. The hours for plays, films and performances of dance are varied to be Monday – Sunday 23:00 – 23:45.
5. The hours for live music are varied to be Monday – Sunday 23:00 – 23:45.
6. The hours for recorded music are varied to be Monday – Sunday 23:00 – 23:45.
7. No noise generated on the premises from music, patrons or any mechanical equipment, shall emanate from the premises, nor vibration be transmitted

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through the structure of the premises, that may give rise to a nuisance at any noise sensitive premises from opening until closing time.

8. To ensure that deliveries and emptying of bottle bins only happen between Monday – Friday 08:00 - 18:00, Saturday 08:00 – 13:00 and not on a Sunday or Bank Holiday.
9. All staff members at the premises must receive the following induction training prior to selling alcohol:
 - a. The lawful selling age of restricted products
 - b. Refusing the sale of alcohol to a person who is drunk

With the date and time of the induction training documented.

10. Further verbal reinforcement/refresher training covering the above must be carried out thereafter at intervals not exceeding three consecutive months with the date and time of the verbal reinforcement/refresher training documented.
11. Documentation of all induction and verbal reinforcement/refresher training undertaken by staff members must be signed by both the staff member and the DPS. All training records must be kept on the premises and made available to Sussex Police and/or officers of Hastings Borough Council and/or officers from Trading Standards upon request.
12. A list of all staff members who are authorised to sell alcohol on the premises must be kept on the premises and endorsed and dated by the DPS. The list must be made available to Sussex Police and/or officers of Hastings Borough Council and/or officers from Trading Standards upon request.
13. SIA Door Supervisor to be employed from 22:00 to 30 minutes after closing.
14. The volume of amplified sound used in connection with the entertainment provided must be operated at all times from a part of the Premises not accessible to the public.
15. Prominent, clear and legible notices will be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
16. A notice must be displayed in and at the entrance to the premises where it can be clearly seen and read and shall indicate that it is unlawful for persons under 18 years of age to purchase alcohol or for any person to purchase alcohol on behalf of a person under 18 years of age.
17. Signage advertising the age verification or “Challenge 25” Policy will be displayed in prominent locations at the premises.

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These conditions take effect forthwith.

The reasons for granting this application are:

1. The Sub-Committee only grant part of the application as sufficient submissions were not made for the Sub-Committee to move away from the matrix in relation to the requested later opening time.
2. The Sub-Committee do however wish to provide the Applicant with the ability to expand the scope his business and put on entertainment in the evening.
3. The Sub-Committee were in favour of promoting culturally diverse restaurants in Hastings.
4. The early opening times have been given to provide the applicant the flexibility he requested where this does not conflict with the matrix.

(The Chair declared the meeting closed at 12.47pm)