



LICENSING SUB-COMMITTEE

Thursday 21 July 2022

APPLICATION DETAILS

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| Type: | Variation – Premises Licence |
| Name of Applicant(s): | L'Escargot Sur Mer Ltd |
| Address of Applicant(s): | 152 High Street, Aldeburgh, IP15 5AQ |
| Type of applicant (Premises Only): | Company |
| Name of Premises: | L'Escargot Sur Mer |
| Address of premises: | 152 High Street, Aldeburgh, IP15 5AQ |
| Description of Premises: | Restaurant and hotel |

EXECUTIVE SUMMARY:

- This is an application to vary an existing premises licence.
- The application seeks to extend the licensable area, which will apply to all currently licenced activities. To extend the times for the sale of alcohol (on & off sales) and to add live music (indoors and outdoors).

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| Is the report Open or Exempt? | Open |
| Wards Affected: | Aldeburgh & Leiston |
| Cabinet Member: | Councillor Mary Rudd, Cabinet Member with responsibility for Community Health |
| Supporting Officer: | Leonie Houlton Licensing Officer 01502 523624 Leonie.Houlton@eastssuffolk.gov.uk |

1. PROPOSED LICENSABLE ACTIVITIES

Supply of Alcohol (on & off sales)

Existing (On Sales) – Monday to Sunday 12:00 to 23:00
With an additional hour on Bank Holiday weekends Friday to Monday inclusive, Christmas Eve and New Years Eve.
Existing (Off Sales) – Monday to Sunday 11:00 to 21:00
This is from the East Coast Store only and will remain the same.

Proposed (On & Off Sales) – Monday to Sunday 12:00 to 23:00
With an additional hour on Bank Holiday weekends Friday to Monday inclusive, Christmas Eve and New Year's Eve.
Proposed (On Sales for residents only) – Monday to Sunday 00:00 to 00:00

Live music (indoors & outdoors)

Monday to Sunday 23:00 to 00:00
This only applies on Bank Holiday weekends Friday to Monday inclusive, Christmas Eve and New Year's Eve.

Recorded music & late-night refreshment

The days and times have not changed from the existing licence and these times have been provided below. However, these activities will now be required in the new areas to be licenced within the premises.

Recorded music (indoors & outdoors)

Monday to Sunday 23:00 to 00:00
This only applies on Bank Holiday weekends Friday to Monday inclusive, Christmas Eve and New Year's Eve.

Late night refreshment (indoors & outdoors)

Monday to Sunday 23:00 to 00:00
An additional hour on Bank Holiday weekends Friday to Monday inclusive, Christmas Eve and New Year's Eve.

- 1.2** The licensable area has been extended. This will include the extension of the bar and restaurant on the ground floor, as well as the addition of a first floor terraced area and 6 hotel rooms.

2. PROPOSED OPENING HOURS

There are no changes to opening hours for non-residents.
Monday to Sunday 9:00 to 00:00
An additional hour on Bank Holiday weekends Friday to Monday inclusive, Christmas Eve and New Year's Eve

3. OPERATING SCHEDULE

- 3.1** The following steps have been proposed in order to promote the four licensing objectives. These are proposals offered by the applicant and in their own words. Some submissions may already form part of the licence, as mandatory conditions; others may be re-worded by officers to form meaningful, enforceable conditions on the licence.

General

Alcohol and late night refreshment shall not be sold or supplied except during permitted hours as shown on the licence and summary. These restrictions on authorised hours shall not apply to hotel residents and bona fide guests.

Prevention of crime and disorder

As per existing licence

Public safety

The terrace will be manned by staff when in use.

Prevention of public nuisance

Remove the existing condition 6 - The windows to the function room used for the playing of music shall be kept closed when musical entertainment is taking place.

Remove the existing condition 7 - Except for access and egress the external doors to the function room shall be kept closed when musical entertainment is taking place

Replace with proposed conditions as set out below

1. During any regulated music event the Designated Supervisor, or nominated representative, shall monitor the music levels outside the building and immediately implement any changes necessary:-

- to ensure noise levels remain non-intrusive at nearby residential properties;
- in accordance with any request made by an authorised officer of the Council.

Any such changes in music levels shall be maintained at the reduced level for the period of the music event.

2. The Designated Premises Supervisor, or a nominated representative, shall receive and respond to complaints throughout the duration of all events with regulated entertainment and will have full control at all times over any sound amplification.

3. During any indoor music event the windows to the function room used for the playing of music shall be kept closed when musical entertainment (other than non-amplified or background music) is taking place.

4. During any indoor music event the external doors to any function room used for the playing of music shall be kept closed and only used for access and egress when musical entertainment (other than non-amplified or background music) is taking place.

5. Live music on the terrace shall not involve any amplification.

6. On sales of alcohol outside the hours of 12:00 – 23:00 is restricted to hotel residents only and their bona fide guests (with an additional hour on Bank Holiday Weekends Fri – Mon inclusive, Christmas Eve and New Year's Eve)

Protection of children from harm

As per existing licence

3.2 Following discussions with the Environmental Health Officer, the applicant agreed to this further condition:

1. The first floor external terrace shall not be used outside the following hours:

Sunday to Thursday 07:30 to 22:00 hours

Friday and Saturday 07:30 to 22:30 hours

The updated plan of the premises which accompanies the variation application is attached as **Appendix A**.

The current premises licence is attached as **Appendix B1** and the current plans are attached as **Appendix B2 & B3**.

4. REASON FOR HEARING

4.1 Two representations against the application have been received from other persons.

4.2 The applicant has been provided with a copy of the representations and they are attached as **Appendix C** for members of the Sub-Committee.

4.3 Summary of grounds for representation:

Concerns about music being played/performed on the outdoor terrace and the potential for this to have a detrimental impact on the surrounding residents.

5. POINTS FOR CONSIDERATION

5.1 In exercising its licensing functions, the Licensing Authority has stated in its licensing policy that it will primarily focus on the direct impact of the licensable activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the vicinity of the premises.

5.2 The attention of the Sub-Committee is drawn to the following:

- a) The Licensing Act 2003 Section 4 requires the Sub-Committee to have regard to:
 - Guidance Issued under Section 182 of the Licensing Act 2003.
 - The Council's Statement of Licensing Policy

If the Sub-Committee has reason to depart from the above it is asked to give full reasons for so doing.

- b) Human Rights Act 1998

The Human Rights Act 1998 came into force on the 2 October 2000. The Sub-Committee is urged to have careful regard of its provisions.

It is unlawful for a public authority (this expression includes local authorities) to act in a way which is incompatible with a human right.

As far as the applicant's right to a fair hearing is concerned (Article 6), the applicant has a right to be heard by the Licensing Sub-Committee. If this application is refused

or granted subject to modification, the applicant has a right of appeal to the Magistrates' Court.

In assessing the impact of human rights, the Sub-Committee must seek to strike a balance between the right of the proprietors in the business to conduct it as they wish and local residents who may find its activities intrusive. In this context a business is a "possession" and the human right is expressed to be for the "peaceful enjoyment" of it. A rider to this human right empowers the Council to control the enjoyment of that business by its proprietors in the general interest. At the same time, local residents are entitled to the peaceful enjoyment of their homes.

- 5.3 The relevant notices about this hearing have been served on the applicant and other persons and they have until 13 July 2022 to confirm that they intend to attend, or not, as the case may be and give notice that they wish to call witnesses.

6. CONCLUSION

- 6.1 The applicant has been advised of the representations that have been made and there may be mediation between the applicant and the other persons before the hearing in order to achieve agreement. In the event that an agreement is not possible, the Sub-Committee will be asked to determine this application by:

- Granting the application subject to such conditions as are consistent with the operating schedule accompanying the application and any condition which must be included in the licence in accordance with the Licensing Act 2003.
- Granting the application subject to such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives (for example, by excluding a licensable activity or restricting the hours when a licensable activity can take place), and any condition which must be included in the licence in accordance with the Licensing Act 2003.
- Rejecting the application.

- 6.2 If the decision reached by the Sub-Committee results in differences between the conditions attached to the licence and the planning permission currently in force for these premises, the applicant should be advised that the planning permission must be adhered to unless and until it is amended to reflect the conditions attached to the licence.

- 6.3 Depending on the decision of the Sub-Committee, the applicant and / or responsible authority and interested parties that have made representations have rights of appeal to the Magistrates Court.

- 6.4 When announcing its decision, the Sub-Committee is asked to state its reasons.

| APPENDICES | |
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| Appendix A | Plan of the premises which accompanies the variation application |
| Appendix B1 | Current Premises Licence |
| Appendix B2 | Current Plan |
| Appendix B3 | Current Site Plan |
| Appendix C | Representations (private document for the Sub-Committee only) |

| BACKGROUND PAPERS |
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| None |