



LICENSING SUB-COMMITTEE

Wednesday 16 September 2020

VARIATION TO AN EXISTING PREMISES LICENCE: BREEZ, UNDERCLIFF ROAD, FELIXSTOWE

APPLICATION DETAILS

Type:	Variation – Premises Licence
Name of Applicant(s):	Samy Limited
Address of Applicant(s):	73-75 Corporation Road, Middlesbrough, TS1 1LY
Type of applicant (Premises Only)	Company
Name of Premises:	Breez
Address of premises:	18 Undercliff Road, Felixstowe, IP11 2AW
Description of Premises:	Off licence and convenience store.

EXECUTIVE SUMMARY:

- This is an application for a variation to an existing Premises Licence.
- The application seeks to permit the following licensable activities:
 - To increase the times for the supply of alcohol (off sales) to be 24hours, everyday
 - To increase the times for provision of late night refreshment everyday between 23:00hrs and 05:00hrs

Is the report Open or Exempt?	Open
Wards Affected:	Eastern Felixstowe

Cabinet Member:	Councillor Mary Rudd, Cabinet Member with responsibility for Community Health
Supporting Officer:	Teresa Bailey Senior Licensing Officer 01394 444364 teresa.bailey@eastsoffolk.gov.uk

1. PROPOSED LICENSABLE ACTIVITIES

Sale of alcohol – off sales

Existing - Monday to Sunday 06:00 to 02:00

Proposed - Monday to Sunday 00:00 to 24:00

Late night refreshment – indoors and outdoors

Existing – Monday to Sunday 11:00 to 02:00

Proposed – Monday to Sunday 11:00 to 05:00

2. PROPOSED OPENING HOURS

Existing - Unrestricted other than by planning law

Proposed – Monday to Sunday 00:00 to 24:00

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.

3.2 None, other than the existing conditions on their current licence.

Prevention of Crime and Disorder

None, other than the existing conditions on their current licence.

Public Safety

None, other than the existing conditions on their current licence.

Prevention of Public Nuisance

None, other than the existing conditions on their current licence.

Protection of Children from Harm

None, other than the existing conditions on their current licence.

The application including a plan of the premises is attached as **Appendix A**.

The current premises licence is attached as **Appendix B**

4. REASON FOR HEARING

4.1 One representation against the application has been received from other persons.

4.2 The applicant has been provided with a copy of the representation and this is attached as **Appendix C** for members of the Sub-Committee.

4.3 Summary of grounds for representation:

Concerns over current issues with customers and drunken behaviour. This would only increase if a 24-hour licence was granted. Also concerns over noise and how noise from the premises already disturbs the family and this would be worse if it was 24 hours.

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 9 September 2020 to confirm that they intend to attend, or not, 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	
Appendix A	Application form and plan of the premises.
Appendix B	Current Premises Licence
Appendix C	Representations

BACKGROUND PAPERS	
None	