



## LICENSING SUB-COMMITTEE

Monday, 13 September 2021

### APPLICATION DETAILS

<b>Type:</b>	New – Premises Licence
<b>Name of Applicant(s):</b>	Elizabeth Holdings Plc
<b>Address of Applicant(s):</b>	Merchant House, 33 Fore Street, Ipswich, IP4 1JL
<b>Type of applicant (Premises Only):</b>	Company
<b>Name of Premises:</b>	Shish Restaurant & Meze Bar
<b>Address of premises:</b>	20 The Esplanade, Lowestoft, NR33 0QG
<b>Description of Premises:</b>	Restaurant and public house

### EXECUTIVE SUMMARY:

- This is an application for a new Premises Licence.
- The application seeks to permit the following licensable activities: Sale of alcohol for on and off the premises, Late night refreshment indoors, Live and Recorded music indoors and performance of dance indoors.

Is the report Open or Exempt?	Open
<b>Wards Affected:</b>	Kirkley & Pakefield
<b>Cabinet Member:</b>	Councillor Mary Rudd, Cabinet Member with responsibility for Community Health
<b>Supporting Officer:</b>	Leonie Houlton Licensing Officer 07733 362154 <a href="mailto:Leonie.Houlton@eastsoffolk.gov.uk">Leonie.Houlton@eastsoffolk.gov.uk</a>

## 1. PROPOSED LICENSABLE ACTIVITIES

### Sale of alcohol – both on and off sales

Monday to Saturday	11:00 to 02:00
Sunday	12:00 to 00:30
Christmas Eve & New Years Eve when not a Friday or Saturday	11:00 to 02:30

### Late night refreshment – indoors

Monday to Saturday	23:00 to 02:00
Sunday	23:00 to 00:30
Christmas Eve & New Years Eve when not a Friday or Saturday	23:00 to 03:00

### Live music – indoors

Monday to Thursday	11:00 to 00:00
Friday & Saturday	11:00 to 02:00
Sunday	12:00 to 00:30

### Recorded music and performance of dance – indoors

Monday to Saturday	11:00 to 02:00
Sunday	12:00 to 00:30
Christmas Eve & New Years Eve when not a Friday or Saturday	11:00 to 02:00

(Although mentioned on the application, live and recorded music as well as performances of dance are permitted by deregulation until 23:00 anyway)

## 2. PROPOSED OPENING HOURS

Monday to Saturday	11:00 to 02:00
Sunday	12:00 to 00:30
Christmas Eve & New Years Eve when not a Friday or Saturday	11:00 to 03:00

## 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.

### General

1. All staff whose role involves the sale/service of alcohol will receive training with regard to their responsibilities and obligations under Licensing Act 2003. This training will be documented, and training records retained on site. Those training records will be made available to officers of the responsible authorities on request.

### Prevention of crime and disorder

1. A CCTV system will be installed and maintained within the premises. That CCTV will operate at all times that the premises are open to the public. Cameras will be situated both inside and outside the premises and recordings retained for a minimum period of 28 days. Recordings will be made available to officers of the responsible authorities upon request.

2. Notices will be displayed at all entrances/exits asking customers to leave the premises quietly.
3. The DPS will operate a refusals book / incident register. That book shall detail all incidents of injury / ejections / refusals / drug misuse / seizure / age challenge. All entries shall be timed, dated and signed by the author. The incident / refusal book shall be produced to the police or officers of the responsible authorities on request.
4. The DPS will risk assess the need for door supervision with door supervisors being engaged in such numbers, between such times and on such dates as necessary by the risk assessment.

### **Public safety**

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### **Prevention of public nuisance**

2. All doors and windows will be kept closed after 21.00 (save to permit access and egress) to prevent noise escape.
3. The DPS shall ensure that the placing of bottles into receptacles outside the premises takes place at times that will minimise disturbance to nearby properties.

### **Protection of children from harm**

1. The premises will operate a Challenge 25 Age Verification Scheme. All staff will be trained in the operation of this scheme. The only acceptable forms of identification which will be accepted are a UK photocard driving licence, Military ID, passport or government approved proof of age card bearing the PASS hologram logo.
2. Notices advising customers that a Challenge 25 scheme is being operated will be displayed within the premises.

During the consultation period additional conditions were added as requested and agreed with the Suffolk Constabulary, Public Health Suffolk County Council and the Environmental Protection Team at East Suffolk Council.

Public Health proposed conditions which were similar to the conditions already agreed with the police and therefore they agreed to adopt the conditions below proposed by the police.

### **Conditions agreed with Suffolk Constabulary (and Public Health)**

1. The Licence holder shall install Video/CCTV equipment inside/outside the premises and ensure that it is maintained in working order.
2. The Licence holder shall set Video/CCTV equipment to record from the time that the premises open to the public until the premises close and all members of the public have left.
3. The Licence holder shall ensure that monitoring tapes are retained for at least twenty eight days and are produced to an authorised officer on demand.
4. The Licence holder shall put up notices advising that CCTV has been installed on the premises so that they are clearly visible to the public within the licensed premises.
5. The Licence holder shall ensure that the consumption of alcohol is restricted to the areas identified on the plan attached to the operating schedule.
6. The Licence holder/DPS shall implement an ejection policy ensuring all instances of drunkenness, disorder, drug use or violence are challenged, resulting in the ejection or retention of the individual(s) and under serious circumstances, consideration shall be given to their permanent exclusion from the premises in the future. All such instances

must be notified to the Police at the time of happening or as soon as possible thereafter using the appropriate method, emergency or non-emergency contact dependant on the circumstances. Where an offence of violence has been committed the premises management will take all reasonable steps to identify the offender and pass the identity to the Police as soon as is reasonably practicable. An incident book entry will be made on all occasions; timed, dated and signed by a member of the security team and then countersigned and acknowledged by the Duty Manager.

7. The Licence holder/DPS shall ensure that all bar staff engaged in the sale of alcohol to be trained in responsible alcohol retailing to the minimum standard of BIIAB level 1 or equivalent, within three months of commencing employment at the premises. Training records shall be kept on the premises and produced to the Police and authorised Local Authority Licensing Officers on demand. For the avoidance of doubt this training can be administered in-house in accordance with the relevant criteria. Training will be reviewed every 6 months to ensure staff are up to date with the latest legislation.
8. The Licence holder/DPS shall implement the "Challenge 25" scheme, ensuring prominent signage is displayed throughout the premises and all staff are trained in its operation. This means that any person who appears under 25 years of age shall be required to provide proof of age using an acceptable form of photo ID. The only forms of ID which may be accepted are, a) proof of age card bearing the PASS hologram logo, b) passport, c) UK photo driving licence or Military ID card. Notices advertising that the premises operates a 'Challenge 25' scheme shall be displayed in a clear and prominent position in the premises.
9. The Licence holder/DPS shall ensure that an incident book(s) / refusals register shall be kept and maintained on the premises at all times. The book(s) shall detail all incidents of injury/ejection/refusals/drug misuse/seizure/age challenge. Such matters shall be timed, dated and signed by the author and produced to Police/Authorised Licensing Officers on demand. In the case of the refusals register, there shall be one at each bar area, or any other area utilised for the supply of alcohol.
10. The Licence holder/DPS shall ensure that empty drinking vessels shall be regularly collected as to ensure no accumulation in areas where the public have access
11. The Licence holder shall ensure there are a minimum of two SIA registered door staff employed on Fridays and Saturdays between 22.00 and 02.00
12. The Licence holder shall ensure all door supervisors on commencing duty will sign an attendance book with their full name, SIA number, and record the time/date and shift hours.
13. The Licence holder shall ensure that the supply of alcohol in the first floor restaurant will only be by way of table waiter/waitress service

#### Conditions agreed with Environmental Protection

1. Live Music be permitted (indoors) Monday – Saturday 11.00 hrs to 00.00 hrs with Sundays 12.00 hrs to 00.00 hrs
2. Performances of Dance be permitted (indoors) Monday – Saturday 11.00 hrs to 00.00 hrs with Sundays 12.00 hrs to 00.00 hrs
3. The licence holder shall make sure that doors and windows are kept closed whenever regulated entertainment is operated (except for ingress and egress) to reduce noise from the premises
4. The Licence holder shall nominate a person to be responsible for monitoring noise levels and instruct that person to implement changes in noise levels in accordance with any request by an authorised officer of the Council immediately and ensure that

volume is maintained at the reduced level.

5. Noise from the premises must not be audible (noise will be considered to be inaudible or not audible if it cannot be heard or is imperceptible to the human ear) at the façade of any noise sensitive premises in the vicinity. (Noise sensitive premises are residential properties and hospitals, libraries, places of worship, hotels, schools and other similar premises when these are in use) between the hours of 23.00 hrs – 07.00 hrs

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

#### **4. REASON FOR HEARING**

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

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

4.3 Summary of grounds for representation:

The main concerns were the lateness of the times for licensable activities, including the sale of alcohol and music. The noise from the premises, especially the music would cause a disturbance as it had done when it was last licenced. There were issues involving violence as well as anti-social behaviour from the customers when this premises was open before (operating as a nightclub) and there are concerns that as the times will be the same for the sale of alcohol, music and other licensable activities that this could happen again.

#### **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 6<sup>th</sup> September 2021 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.

<b>APPENDICES</b>	
<b>Appendix A</b>	Application form including a plan of the premises
<b>Appendix B</b>	Representation (private document for the Sub-Committee only)

<b>BACKGROUND PAPERS</b> – None
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