

Licensing Authority, Chichester District Council, East Pallant House,
1 East Pallant, Chichester, West Sussex, PO19 1TY

Alcohol and Entertainment Licensing Sub-Committee

Date & Time: Monday 7th August 2023 at 14:30

Venue: Committee Room 2, Chichester District Council, East Pallant House, 1 East Pallant,
Chichester, West Sussex, PO19 1TY

**Application for a PREMISES LICENCE
(Application Number – 23/01157/LAPRE)**

Krakow Market
2A Crane Street
Chichester
West Sussex
PO19 1LH

RECOMMENDATIONS

- 1.1 That the Sub-Committee consider and determine an application made by Mr Kaiwani Kadri Nadri for a Premises Licence.
- 1.2 If the determination is to grant a Premises Licence, to give consideration as to whether it is appropriate to attach conditions to ensure the statutory licensing objectives are promoted.
- 1.3 The Sub-Committee is to give reasons for its decision.

2. REASONS FOR HEARING

- 2.1 The Premises Licence application submitted by Mr Kaiwani Kadri Nadri of Flat 7 Bayview Court, 8-12 Nyewood Lane, Bognor Regis, PO21 2QG has been the subject of two relevant representations, both in opposition to the application. Of the representations received, one is from a member of the public with the other from Sussex Police in their statutory role as a Responsible Authority under the Licensing Act 2003.

3. BACKGROUND

Included in this report are the following attachments:

- 3.1 Copy of the Alcohol and Entertainment Licensing Sub-Committee – Protocol.
- 3.2 Plans depicting the application site and local area in relation to the representations received by the Licensing Authority (**Attachment A**).

- 3.3 Copy of the complete Premises Licence application (**Attachment B**).
- 3.4 Copy of all relevant representations (**Attachment C**).
- 3.5 Copy of mediation between the applicant and both Sussex Police and Mr A J G Crawshaw (**Attachment D**).

4 SUMMARY OF THE PREMISES LICENCE APPLICATION

- 4.1 A copy of the complete application is reproduced in full at Attachment B.
- 4.2 Mr Nadri submitted a valid application on 12th June 2023. As part of the application process, statutory public notices were displayed by the applicant at the application site during the representation period; this ran between 12th June 2023 and 10th July 2023 inclusive. In addition, a copy of the statutory public notice was published in the Chichester Observer newspaper on 22nd June 2023.
- 4.3 The following is an extract taken from the application form in which the applicant provides a general description of the site and intended use:

‘THIS is an empty premises we wish to open as a General Store selling alcohol alongside the other products available’.

- 4.4 The application is for a permanent Premises Licence and seeks only the retail sale of alcohol for consumption off the premises as a licensable activity.
- 4.5 The table below specifies the proposed standard days and times being sought for the supply of alcohol along with the associated opening hours:

Licensable Activity	Hours proposed by the applicant within the application	Location
Supply of Alcohol <i>(for consumption off the premises only)</i>	Every Day 08:00 – 22:00	Indoors Only
Hours premises are open to the public	Every Day 08:00 – 22:00	N/A

- 4.6 The applicant has provided information within Box M of the application form stating the steps that they intend to take to promote all four of the licensing objectives; the application form is included at Attachment B. With respect to the representation submitted by Sussex Police, the applicant has agreed in principle to a number of conditions requested by Sussex Police and, should it have been possible to proceed to grant a Premises Licence, Sussex Police were prepared to withdraw their representation. The agreement in principle between Sussex Police and the applicant with respect to the additional conditions is shown at Attachment D.

4.7 In view of the retail sale of alcohol being applied for as a licensable activity, it is necessary for an individual to be nominated within the application as the proposed 'Designated Premises Supervisor' (DPS). In order to be a DPS, the proposed individual must either hold or be in the process of applying for a Personal Licence granted under the Licensing Act 2003. Mr Nadri has nominated himself as the proposed DPS, although he does not currently hold a Personal Licence. However, it is understood that he is in the process of collating the necessary documentation and will be submitting an application to Arun District Council imminently.

5 THE PROCESS AND PROMOTION OF LICENSING OBJECTIVES

5.1 The legislation provides a clear focus on the promotion of four licensing objectives which must be addressed when licensing functions are undertaken. Each objective is of equal importance. The licensing objectives are:

- The prevention of crime and disorder,
- Public safety,
- The prevention of public nuisance, and
- The protection of children from harm.
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5.2 In carrying out its licensing functions, the Licensing Authority must also have regard to its current Statement of Licensing Policy 2022-2027, statutory guidance published by the Home Office (December 2022) along with relevant matters raised in any representation(s).

6 RELEVANT REPRESENTATION(S)

6.1 A representation is "relevant" if it relates to the likely effect of the grant of a licence on the promotion of at least one or more of the licensing objectives. Representations can be in opposition and/or support of an application. As stated at paragraph 2.1 above, the application attracted two relevant representations, both of which are in opposition. Both representations are reproduced in full at Attachment C.

6.2 The relevant representations that remain are one from member of the public along with Sussex Police in their role as a Responsible Authority, albeit that an agreement in principle has been reached between Sussex Police and the applicant.

6.3 The basis for the representations being submitted was that the representors were not fully satisfied that the steps proposed by the applicant within their application would be effective to promote the Prevention of Crime and Disorder, Prevention of Public Nuisance and Protection of Children from Harm licensing objectives

7 MEDIATION

7.1 As mentioned at paragraph 6.2, whilst Sussex Police determined to submit a representation in respect of the application, discussions were subsequently had between Mr Patrick Burke, agent acting on behalf of Mr Nadri, and Sussex Police. The outcome of these discussions was that Mr Nadri agreed to a number of additional conditions proposed by Sussex Police. Sussex Police were consequently prepared to withdraw their representation should it have been possible to grant a Premises Licence at the end of the representation period. The successful mediation is shown in full at Attachment D, however in order to assist, the agreed conditions relate to the following areas/ matters:

- (i) Provision and maintenance of closed-circuit television system (CCTV);
- (ii) Provision and maintenance of an incident log;
- (iii) Spirits to be kept behind the counter out of direct reach by customers;
- (iv) Provision of direct contact details for the Designated Premises Supervisor to all statutory Responsible Authorities;
- (v) Restrictions in respect of the purchase of alcohol or tobacco products from sellers calling at the premises without prior appointment;
- (vi) Operation of a 'Challenge 25' policy at the premises to protect against children buying alcohol including signage at the premises;
- (vii) Training of all individuals who would be involved in selling alcohol; and
- (viii) Requirements for any alcohol delivery service provided.

7.2 With respect to the representation submitted by Mr Crawshaw, Mr Burke did communicate with Mr Crawshaw on behalf of Mr Nadri. Mr Burke outlined the statutory process that had been followed and confirmed that his client had agreed to the inclusion of a number of specific conditions proposed by Sussex Police. However, Mr Crawshaw's concerns remained and consequently his representation subsists. The communication between Mr Burke and Mr Crawshaw is shown at Attachment D.

8 CONSIDERATION

8.1 In reaching its determination, the Sub-Committee must take into consideration the promotion of the four statutory licensing objectives, the Council's Statement of Licensing Policy, the current Home Office Guidance along with written and/or oral evidence during the hearing.

8.2 It is very important to note that these are the only matters to be addressed by the Licensing Authority when considering this application. The licensing objectives are the only grounds on which representations can be made, and the only grounds on which the Licensing Authority will be able to refuse an application or impose appropriate conditions in addition to mandatory conditions and those proposed by the applicant in their operating schedule.

8.3 Human Rights considerations must be taken into account fully in balancing licensing issues, in particular, article 1 of the first protocol and articles 6 and 8. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property (holding a licence would be considered a possession). Article 8 relates to the right to respect for private and family life, home and correspondence. Article 6 relates to the right to a fair trial. These are however qualified rights and can be deprived of "in the public interest". Interference is permissible if what is done: -

- Has its basis in law;
- Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim,
- Is proportionate to the aims being pursued; and,
- Is related to the prevention of crime or, the protection of public order or health or the protection of the rights and freedoms of others.

8.4 The Sub-Committee must consider each application on its own merits, and in accordance with the principles of natural justice, as well as the provisions of the Licensing Act 2003. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.

- 8.5 All applications before the Sub-Committee must be considered against the backdrop of anti-discriminatory legislation including the Equality Act 2010 and in accordance with the Council's current Equality Strategy.
- 8.6 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from Responsible Authorities and any other person(s).
- 8.7 The Sub-Committee are required to give reasons for their decision.

9. OPTIONS OPEN TO THE SUB-COMMITTEE

9.1 When considering this application, the following options are available to the Sub-Committee:

- (a) Grant the Premises Licence as applied for;
- (b) Grant the Premises Licence as applied for along with any additional conditions considered appropriate to promote one or more of the licensing objectives on which relevant representations have been received.
- (c) Grant the Premises Licence but exclude certain licensable activities from the licence or reduce the hours being sought during which the licensable activities may take place; or
- (d) Reject the whole or part of the Premises Licence application.

10 BACKGROUND PAPERS

- Licensing Act 2003 (as amended)
- Home Office Guidance issued under section 182 of the Licensing Act 2003 (December 2022)
- Chichester District Council's Statement of Licensing Policy 2022-2027

11 ATTACHMENTS

Attachment A: Plan depicting the application site and local area in relation to the representations received by the Licensing Authority

Attachment B: Copy of the complete Premises Licence application

Attachment C: Copy of all relevant representations

Attachment D: Copy of all mediation

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