

Bath & North East Somerset Council

MEETING:	Licensing Sub Committee	AGENDA ITEM NUMBER
MEETING DATE:	Thursday 23 November 2017	
TITLE:	Application for a Premises Licence for SUGO , 66 Walcot Street, Bath, BA1 5BD	
WARD:	Abbey	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Annex A Application for a new premises licence		
Annex B Plans of premises		
Annex C Site plans		
Annex D Representations received from other persons		
Annex E Representation received from Tramshed Limited and TARA		
Annex F Current premises licence for 66 Walcot Street		

1 THE ISSUE

- 1.1 An application has been received for a new Premises Licence under s.17 of the Licensing Act 2003 in respect of Sugo, 66 Walcot Street, Bath, BA1 5BD.
- 1.2 The application was scheduled to be determined before the Licensing Sub-Committee on 9 November 2017. However, as the applicant was not in attendance, members considered Regulation 19 of the Licensing Act 2003 (Hearings) Regulations 2005 which deals with failure of the parties to attend the hearing.
- 1.3 Members heard from the Senior Public Protection Officer that the Applicant had given written notification of his intention to attend the hearing.
- 1.4 In the exercise of their discretion under Regulation 19 members determined it to be necessary in the public interest to adjourn the hearing to 23 November 2017.

2 RECOMMENDATION

2.1 That the Sub Committee determines this application.

3 RESOURCE IMPLICATIONS

3.1 The costs of processing licences are covered by the fees charged. The fee for this application is £190.00.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

4.1 An Equality Impact Assessment (Eq1A) has been completed. No adverse or other significant issues were found.

4.2 Consideration must be given to the Human Rights Act 1998 and the “convention rights”.

4.3 The Sub Committee have been delegated authority to determine the application on behalf of the Licensing Authority in accordance with the Licensing Act 2003.

4.4 When reaching a decision, the Licensing Authority must carry out its functions with a view to promoting the four licensing objectives.

5 THE REPORT

5.1 An application has been received for a new Premises Licence (Annex A).

5.2 The application proposes the following licensable activities:

- 1) The **Sale of Alcohol** for consumption on and off the premises between the following hours:

Monday to Saturday 07:00 - 02:00 the following morning

Sunday 07:00 – 23:00

- 2) The provision of **Late Night Refreshment** indoors and outdoors:

Monday to Saturday 23:00 - 02:00 the following morning

- 3) The **Exhibition of Film** indoors only:

Every Day 07:00 – 23:00

- 4) The **Opening Hours** proposed are:

Monday to Saturday 07:00 - 02:30 the following morning

Sunday 07:00 – 23:30

- 5) The following **conditions** have been offered by the applicant to promote the licensing objectives:

- Staff shall be trained on issues regarding the Licensing Act 2003, service of alcohol. A record of this training will be kept at the premises and made available for inspection as required by the Police or Licensing Authority.
- All alcohol supplied for consumption off the premises will be sold in sealed containers.
- CCTV cameras shall be installed to the satisfaction of the Police and ICO guidelines, and will be maintained in full working order when the premises are open to the public. Recorded images will be of evidential quality. Recordings shall be kept for 31 days and made available to the Police and Licensing Authority (in accordance with Data protection legislation). Signs will be displayed that CCTV is recording.
- Alcohol to be sold or supplied for delivery must have been pre-ordered. A record of all deliveries must be kept on the premises and will include details of type and quantity of alcohol supplied, and address to which delivered.
- Alcohol will only be delivered to an address that has been provided by the person placing the order.
- The outside rear courtyard will be cleared of patrons by 23:00 hours each day.
- With the exception of the Exhibition of Film, there will be no regulated entertainment at the premises.
- Signage requesting patrons to be considerate to residents when leaving the premises shall be clearly displayed at entrances/exits.
- The premises shall operate a 'Challenge 21' age verification policy. Signage advertising this policy shall be displayed in the bar area.
- Staff delivering pre-ordered alcohol will implement the 'Challenge 21' policy should they consider the recipient of the alcohol to be under the age of 21.

5.3 Plans of the premises are attached at Annex B. The licensed premises comprises of a ground floor bar and restaurant, a private dining room, an external courtyard and small external area to the front of the premises, all of which are “on premises”.

5.4 Site plans are attached at Annex C.

5.5 The Licensing Act 2003 (Section 4) states that it is the duty of all Licensing Authorities to carry out their functions under the Act with a view to promoting the licensing objectives. The licensing objectives are:

- a) The Prevention of Crime and Disorder
- b) Public Safety
- c) The Prevention of Public Nuisance
- d) The Protection of Children from Harm.

Each objective is of equal importance. As there are no other licensing objectives, these four are of paramount consideration at all times. When considering applications, representations or notifications, the Licensing Authority will have regard to these licensing objectives.

5.6 The Licensing Authority may grant the application with or without additional conditions.

5.7 Section 4(3)Licensing Act 2003 states that the Licensing Authority should also have regard to the Council's Licensing Policy, the Statutory Guidance issued under Section 182 of the Licensing Act 2003, and the Licensing Act itself, and in particular to:-

- a) Paragraphs 3-6, 8-10, 13-14, 17-24, 29,33-36, 38-41 of the 2015 policy.
- b) Chapters 2, 8, 9 and 10 of the Statutory Guidance as revised **April 2017**.
- c) Sections 4, 9, 10, 11, 12, 13, 16, 17, 18, 23, 182, and 183 of the Act.

5.8 The Licensing Authority recognises that Licensing and Planning are separate regimes. Where an application is granted by the Licensing Authority which would require planning permission this would not relieve the applicant of the need to obtain that permission. It will still be necessary for the applicant to ensure that he/she has **ALL** the necessary permissions in place to enable them to run the business within the law.

5.9 If the application is refused the applicant may appeal within 21 days of the notification to the Magistrates' Court. If the application is granted the person making the relevant representation may appeal within 21 days of the notification to the Magistrates' Court. On appeal the court may either dismiss the appeal, substitute the decision appealed against for any other decision which could have been made by the Licensing Authority, or remit the case to the Licensing Authority to dispose of in accordance with the direction of the court. The court may make such order for costs as it thinks fit.

5.10 In accordance with the requirements of the Act, copies of the application were forwarded to the police, the fire authority, environmental health,

development control, trading standards, health authority and the child protection agency.

- 5.11 The applicant is required to place a notice at the premises for a period of 28 consecutive days starting the day after the application is made, and to place an advert in a local newspaper within 10 working days of submitting the application to the licensing authority.
- 5.12 Five representations have been received from “other persons” all of whom reside close to the premises. All five representations express concern that the applicant’s proposals are likely to undermine **the prevention of public nuisance licensing objective**, whilst some also refer to the likely effect those proposals may have on the other three licensing objectives, namely **the prevention of crime and disorder, public safety and the protection of children from harm** (Annex D).
- 5.13 A representation has been received from The Tramshed Limited and The Abbey Residents’ Association expressing concern that the proposals will undermine the prevention of public nuisance licensing objective and the protection of children from harm licensing objective (Annex E). The representation proposes that should the application be granted that the following conditions be imposed:
- Alcohol shall be sold solely in conjunction with menu-based food;
 - No food or alcohol shall be sold for consumption off the premises;
 - The sale and consumption of alcohol shall commence no earlier than 09:00 seven days a week and cease no later than 23:00 hours Monday to Saturday and 22:00 hours on Sunday;
 - The sale and consumption of alcohol and all licensable activities shall cease in the rear courtyard at 22:00 hours nightly;
 - Customers shall only enter and leave the premises by the front (Walcot Street), with the rear entrance being limited to being used solely as a service entrance, staff entrance and fire exit;
 - Customers are prevented from gathering and smoking at the rear of the building.
- 5.14 No representations have been received from the Responsible Authorities.
- 5.15 The current premises licence relating to 66 Walcot Street has been included for information at Annex F.
- 5.16 The premises is situated within Bath’s Cumulative Impact Area. As relevant representations have been received, the policy has been engaged and there is a rebuttable presumption that the licence will be refused.

5.17 In consideration of BANES Council's Cumulative Impact Policy the applicant met with the Police Licensing Officer prior to drafting the application. All conditions recommended by the Police Licensing Officer have been offered by the applicant within section M of the application.

5.18 This report has not been sent to the Trades Union because they would have no involvement.

6. RATIONALE

6.1 As representations have been received the Sub Committee must determine the application in accordance with the Licensing Act 2003.

7 OTHER OPTIONS CONSIDERED

7.1 None.

8 CONSULTATION

8.1 In accordance with the Licensing Act 2003 (Premises Licence and Club Premises Certificate) Regulations 2005, the applicant has given notice of the application to all the relevant Responsible Authorities and has advertised the application in the manner prescribed, both at the premises and within a local publication.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

10 ADVICE SOUGHT

10.1 The Council's Monitoring Officer (Head of Legal & Democratic Services and Council Solicitor), section 151 Officer (Divisional Director-Business Support) and the Group Manager Public Protection & Health Improvement have had the opportunity to input to this report and have cleared it for publication.

Contact person	Terrill Wolyn, Senior Public Protection Officer 01225 396939
Background papers	Licensing Act 2003 Guidance issued under s.182 of the Licensing Act 2003 Licensing Act 2003 (Premises and Club Premises Certificates) Regulations 2005 B&NES Statement of Licensing Policy