

**Report to:** LICENSING PANEL

**Date of Meeting :** 4 March 2020

## **APPLICATION TO VARY A PREMISES LICENCE – SUGAR AND SPICE, 2-4 QUEEN STREET, BLACKPOOL, FY1 1PD**

### **1.0 Purpose of the report:**

1.1 To consider an application to vary Premises Licence PL0736 issued in respect of Sugar and Spice, 2-4 Queen Street, Blackpool, FY1 1PD.

### **2.0 Recommendation(s):**

2.1 To consider the application and determine whether the granting of this variation would adversely impact on the licensing objectives.

### **3.0 Reasons for recommendation(s):**

3.1 Representations have been received therefore there must be a hearing to determine the application.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

### **4.0 Background Information**

4.1 On 8 January 2020, the Licensing Service received an application from Mr Emad Abuaassi to vary the Premises Licence issued in respect of Sugar and Spice, 2-4 Queen Street, Blackpool.

4.2 The licence currently authorises the following activities:

Sale by retail of alcohol for consumption on and off the premises – Monday to

Sunday 11.00 to 01.00

Performance of live music – Monday to Sunday 11.00 to 01.00

Entertainment of a similar description Monday to Sunday 11.00 to 01.00

Late night refreshment Monday to Sunday 23.00 to 01.00

Alcohol is not currently being served as there is no Designated Premises Supervisor named on the licence. No entertainment is currently being provided either as the premises is only operating as a takeaway.

- 4.3 The application requests the removal of the sale of alcohol, live music and similar entertainment from the licence as this is no longer required due to the change in nature of the premises from a restaurant to a takeaway (it was previously known as Nunzios Italian Restaurant).

A number of conditions which would no longer be relevant due to the removal of the above activities have been requested to be removed.

New plans have been submitted due to the reduction in the size of the premises.

The hours for Late Night Refreshment have requested to be extended.

On 24 January the applicant put in writing a request to amend his application by volunteering additional conditions and adjusting the terminal hour for late night refreshment to 03.00 on Sunday to Thursday evenings and to 04.00 on Friday and Saturday evenings.

- 4.4 A copy of the application and the applicant's amendments is attached.
- 4.5 Representations have been received from Lancashire Constabulary and the Licensing Authority. Copies of the representations are attached at Appendix 4(b) and (c) respectively.

#### **Local policy considerations**

This premises is situated within the town centre saturation area. Blackpool Council's Licensing Policy creates a rebuttable presumption that applications in this area will be refused. The following sections of the policy are relevant:

4.7.1 The licensing authority has for some years recognised that the Town Centre and Promenade is an area where the behaviour of customers of all of the premises taken together has a greater impact than normal on the licensing objectives. For this reason the town centre saturation area was created.

4.7.3 Due to concerns about crime & disorder and anti-social behaviour arising from the number of takeaways in the area, the town centre saturation area is... extended to include applications for late night refreshment.

4.7.5 The policy will apply to applications including... the provision of late night refreshment for... variations to existing licences (where the modifications are directly

relevant to the issue of cumulative impact, for example, extension of trading hours or capacity.)

4.7.6 ...To rebut this presumption [of refusal], an applicant would be expected to show through the operating schedule, and where appropriate with supporting evidence, that the operation of the premises will not add to the cumulative impact already being experienced. The licensing authority expects that applications covered by this policy will be discussed with the responsible authorities in advance of submission.

With regards to proposed hours, the following sections of the policy are relevant:

4.4.2 The Authority proposes to introduce a framework of core hours for licensable activities at takeaway premises of 02.00 hours.

4.4.3 This framework will apply to applications for new premises licences and to applications for variations to extend the hours for licensable activities... applicants are advised not to exceed these core hours when submitting a licence application in order to avoid representations.

4.4.7 Applicants should note that there is no guarantee that an application will be granted if the hours of trading fall within this framework. In similar terms an application will not automatically be rejected because the proposed hours of trading fall outside of the framework. All applications will be considered on their individual merits.

## 4.6

### **National policy considerations**

9.12 – The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective.

9.43 – The authority's decision should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

14.44 - A Cumulative Impact Assessment should never be absolute... policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its CIA in the light of the individual circumstances of the case. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one or more of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.

## 4.7

### Observations

Emad Abuaassi has held this premises licence since June 2019 when he transferred it into his name, changing the name and style of operation from Nunzios Italian Restaurant to Sugar and Spice takeaway.

Since becoming the Premises Licence holder Mr Abuaassi has submitted Temporary Event Notices to authorise the provision of late night refreshment on the following dates:

27 December 2019 – 2 January 2020 (to 05.00 each day)

07 – 11 February 2020 (to 04.00 each day)

14 – 18 February 2020 (to 04.00 each day)

Mr Abuaassi has previously held a premises licence for Eatabout takeaway, 25 Queen Street, from June 2009 to August 2018.

The conditions currently attached to the licence for Sugar and Spice are:

#### Annex 1 - Mandatory conditions

1 Alcohol shall not be sold or supplied except during permitted hours as stated.

On New Year's Eve permitted hours may be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or if there are no permitted hours on the following day, midnight on 31 December).

The restrictions on permitted hours do not prohibit:

- a) During the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- b) During the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- c) During the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- d) Consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
- e) The ordering of alcohol to be consumed off the premises, or the dispatch by the vendor of the alcohol so ordered;
- f) The sale of alcohol to a trader or club for the purposes of the trade or club;

- g) The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- h) The taking of alcohol from the premises by a person residing there; or
- i) The supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
- j) The supply of alcohol for consumption on the premises to person employed there for the purposes of business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

2 There will be substantial refreshment available at all times the premises are open for trade.

3 There will be drinks other than intoxicating liquor (including drinking water) available at all times the premises are open for trade.

4 No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- a) He is the child of the holder of the premises licence.
- b) He resides in the premises, but is not employed there.
- c) He is in the bar solely for the purpose of passing to or from some part of the premises that is not a bar and to or from some part of the premises where there is no other convenient means of access or egress.
- d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. However, an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

5 Any individual employed on the premises to carry out a security activity must be licensed by the Security Industry Authority.

6 No supply of alcohol may be made under the premises licence -

- a) At a time when there is no designated premises supervisor in respect of the premises licence,

*or*

b) At a time when the designated premises supervisor does not hold a personal licence, or his personal licence is suspended.

7 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

8 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

- 9 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 10 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.  
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either a holographic mark, or an ultraviolet feature.
- 11 The responsible person must ensure that -
- (a) where any of the following alcoholic drinks are sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
- (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.
- 12 (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- (2) In this condition:-
- a. “permitted price” is the price found by applying the formula  $P = D + (D \times V)$ , where-
    - i. P is the permitted price,
    - ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - iii. V is the rate of value added tax chargeable in relation to the

- alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- b. “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - c. “relevant person” means, in relation to premises in respect of which there is in force a premises licence-
    - i. the holder of the premises licence,
    - ii. the designated premises supervisor (if any) in respect of such a licence, or
    - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - d. “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - e. “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## **Annex 2 - Conditions consistent with the Operating Schedule**

- 1 Any regulated entertainment shall only take place within the licensed area of the basement.
- 2 The premises are to be operated in accordance with the principles outlined by the 'Nightsafe' Scheme, as are relevant to those premises, and indicated in the associated leaflet.
- 3 All staff to have received suitable training in relation to the proof of age scheme to be applied upon the premises. Records to evidence this will be made available to an authorised officer upon request.
- 4 Appropriate measures will be taken to ensure staff prevent the removal of bottles or glasses from the curtilage and grounds of the licensed premises.

- 5 Only toughened glass vessels are used to dispense beer to customers.
- 6 At least one personal licence holder will be available while the supply or sale of alcohol is being undertaken (whose identity will be known to all other staff engaged in the supply or sale of alcohol) except in the case of emergency.
- 7 Another member of staff shall be nominated to act for the DPS in their absence, whose identity is known by all other staff when such absence occurs.
- 8 Risk assessments carried out by or on behalf of the licence holder which relate to a licensing objective will be available for inspection by an officer or a responsible authority.
- 9 The premises shall maintain a drinks pricing policy which complies with any local authority resolution made in accordance with approval from the Licensees Forum or any successor liaison body recognised by the Licensing Authority.
- 10 The volume of amplified sound used in connection with entertainment shall at all times be under the control of the licensee or management and the controlling mechanism shall be operated from a part of the premises inaccessible to the public.
- 11 Frequent collection of glasses and bottles will be undertaken to ensure that empty containers do not accumulate in or around the licensed premises.
- 12 A clear, legible and conspicuous notice requesting patrons to avoid causing noise, nuisance or disturbance to local residents shall be displayed at every exit.
- 13 The maximum capacity of the first floor bar and balcony shall be 70 people.
- 14 The balcony will be closed at 01.00 hours.
- 15 No person under the age of 14 will be allowed on the balcony unless accompanied by an adult. Signs to this effect will be posted prominently at the entrance to the balcony.
- 16 No entertainment of an adult nature will take place on the premises.
- 17 The first floor bar shall contain sufficient furniture and seating in order that it does not become a high volume, vertical drinking establishment as defined at paragraph 10.41 of the Statutory Guidance.

- 18 The first floor bar area shall have seating for 40 people when alcohol is being supplied.
- 19 Food will be available at all times when alcohol is supplied on the premises.
- 20 The primary purpose of the premises will be that of a restaurant / bistro / cafe serving food, with additional use for pre-arranged events, functions and other entertainment. The sale of alcohol will be ancillary to these uses.
- 21 The provision of food, including full meals and snacks will form a substantial element of the operation of the premises with sufficient furniture and seating provided and set out in such a way that it does not become a high volume, vertical drinking establishment.
- 22 Table seating shall be provided for a minimum of 70% of the maximum capacity on each floor of the premises, save for pre-arranged private functions.
- 23 No customers shall be admitted to the premises after 00:30 on Friday and Saturday night and 00:00 Sunday - Thursday. For the avoidance of doubt, this condition shall not apply to those customers who were on the premises prior to the stated times, and who exited the premises for the purpose of smoking.
- 24 The premises licence holder will risk assess the requirement for door supervisors at the premises and shall employ door supervisors in such numbers and at such times as is deemed necessary by the risk assessment. The requirement to provide door supervisors as determined by risk assessment will equally apply in respect of private functions and ticketed events where admission is only permitted by ticket purchase in advance.
- 25 Persons under the age of 18 shall only be admitted onto the premises in the company of an adult. Except for pre-arranged private functions and ticketed events, children under 16 shall vacate the premises by 21:00 unless partaking in a meal or family function.
- 26 The premises are to be equipped with a closed circuit television system, which is appropriate to its purpose and provided and maintained to the satisfaction of the enforcement Authorities. The system should display the correct date and time and record footage that is retained for a minimum of 21 days. A person who is conversant with the operation of the system should be on the premises at all times it is open to the public and be able to show CCTV footage to Police or responsible authorities immediately.

4.8 Does the information submitted include any exempt information? No

4.9 **List of Appendices:**

Appendix 4(a) Application

Appendix 4(b) Representation from Lancashire Constabulary

Appendix 4(c) Representation from Licensing Authority

5.0 **Legal considerations:**

5.1 Please see local and national policy in the background information.

6.0 **Human Resources considerations:**

6.1 None

7.0 **Equalities considerations:**

7.1 None

8.0 **Financial considerations:**

8.1 None