

Report to Licensing Sub Committee 2

23 January 2024

Subject:	Application for the grant of a New Premises Licence at Oak Cha Phe, 614 Bearwood Road, Smethwick B66 4BW
Director:	Alice Davey Director of Borough Economy
Contact Officer:	Kiran Dhesi Licensing Officer licensing_team@sandwell.gov.uk

1. Recommendations


- 1.1 To consider the application for the grant of a new premises licence under section 17 of the Licensing Act 2003 in respect of Oak Cha Phe, 614 Bearwood Road, Smethwick B66 4BW.

2. Reasons for Recommendations

- 2.1 The Licensing Sub Committee is asked to make a decision on the application based on any evidence presented at the hearing taking into account the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy and to give reasons for their decision.
- 2.2 To consider an application for the grant of a new premises licence in respect of Oak Cha Phe, 614 Bearwood Road, Smethwick B66 4BW following receipt of representation from the Fire Authority objecting to the grant of the application due to Public Safety.



3. How does this deliver objectives of the Corporate Plan?

	<p>A strong and inclusive economy Investing in people and jobs. Licensed premises provide employment in the Borough and help to support the Borough's economy.</p> <p>It is the Authority's aim to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those who live here, work here and come to visit. We want to ensure that businesses operate responsibly and safely so that our residents live in decent neighbourhoods and have a good quality of life.</p>
---	---

4. Context and Key Issues

- 4.1 Under the Licensing Act 2003, a responsible authority or any other person may make representations in respect of the application which must be relevant to one or more of the four licensing objectives, namely:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children from Harm
- 4.2 Representation has been received from Fire Service, the copy of the representation are attached at Appendix 4.

CURRENT POSITION

- 4.3 An application has been made by Mr Van Dong Nguyen for the grant of a new premises licence.
- 4.4 A copy of the full application and consent form is attached at Appendix 1.
- 4.5 The application is for Supply of alcohol (On & off the premises) Monday – Sunday 10:30 – 21:00
- 4.6 The proposed hours the premises will be open to the public is Monday – Sunday 08:30 – 21:30



4.7 Operating Schedule/Proposed Conditions

General

Consideration must be given to the following:

Public safety, personal safety, environmental protection Duty of care (waste disposal).

All entrances, exits and escape routes kept free of obstacles at all times. Training of staff and management in basic food hygiene and safe handling of all food. Health and safety at work act 1974 to observed by taking steps for the safety of employees, customers, visitors and on site contractors. Keeping a health and safety risk assessment, accident book hazard analysis. Provision of CCTV in operation. To follow the rules and adhere to policy and procedures lay down by the licensing authority at all times.

The prevention of crime and disorder

CCTV To be installed to the specifications and in locations to the agreement of West Midlands Police (Licensing Dept at Birmingham Central Police Station). To be recording at all times premises are open for any licensable activity. All images are to be held for a minimum 28 days. All images held are to be available immediately on request by any responsible authority. CCTV to be installed to the current British Standard BS7958. This consists of; Cameras shall cover all public areas. Head and facial recognition coverage. Images will record in real time, ideally 25 frames per second, but a minimum of 12 frames per second. A member of staff will be fully trained in operating and downloading recordable images at the request of any RA's.

Supply of alcohol for consumption on the premises shall only be to persons seated or those waiting to be seated and shall be served by waiter/waitress service. Alcohol to be table service only and by waiter/waitress service. Alcohol only to be supplied to those persons partaking of a table meal.

Public Safety

All reasonable steps to protect health safety and welfare at work of staff, customers, visitors and on site contractors by the design and layout of the premises, are prime objective of the management, hence keeping all



access/ egress and fire escape routes clear at all times, provision of adequately visible signage. The premises licence holder shall ensure appropriate staff training to be satisfactorily completed and recorded regarding the Licensing Act 2003. Training records to be made available for inspection upon reasonable request by a relevant officer of a responsible authority.

Fire detection, alarms, fire fighting equipment/suppression systems to be installed to the satisfaction of the Local Fire Service. First aid training for a member of staff. Health and Safety risk assessment to be carried out regularly. Electrics, gas

fire and relevant equipment, checked and maintained in working order and tested annually. Fire risk assessment to be carried out weekly.

Provision and regular servicing of fire distinguishes and training of staff in the correct use of them. Continued training of all staff in handling of alcohol.

The prevention of public nuisance

Although total occupancy of the premises is not considered large enough to represent any form of nuisance. However, responsible management at all times. Zero tolerance to drunken or antisocial behaviour. Challenge 21 shall be operated within the premises and communicated to staff through appropriate training. The premise will have an incident book and record all incidents that occur inside or immediately outside the premise, irrelevant if any of the emergency services have been called. This incident book can be inspected at any time by any regulatory body.

Basic training in licensing laws to be operated to all staff (new and old) offering a six months refreshment training. All training will be document and stored appropriately and available to any RA's for review. A refusal log to be maintained at the premises which will be available for inspection by any of the responsible authorities. Staff to record all refusals of alcohol and this will be checked and signed weekly by the Designated Premises Supervisor. Staff will be given appropriate training on how to complete and maintain the booklet. CCTV in operation (During operating hours).



The Protection of children from harm

The premises shall adopt the Challenge 21 Scheme and appropriate signage will be placed at the entrance to the premises and adjacent to any bar servery. Children will be allowed entry into the premises so long as they are with a responsible person (over the age of 18) and only in the premises for the purpose of a plated meal.

Exclusion of children in and or around the kitchen and Bar area.

Requirement for all children to be accompanied by adults. All children must have adequate supervision at all time while they are Present in the restaurant. Children will not be allowed to roam freely around the premises. The premises will maintain and update a refusal of alcohol registrar, and document made available upon request of the Police or Local Authority. No children allowed at the bar serveries.

4.8 A location map of the premises is attached at Appendix 3.

4.9 Consultation (customers and other stakeholders)

A notice has been published in a local paper and a public notice has been displayed at the premises outlining the application and inviting comments/representations to be sent to the Licensing Authority, detailing a closing date for these to be received. Details of the application were also published on the Council's website.

5. Alternative Options

5.1 The options available to the Licensing Sub-Committee having considered all the relevant information are as follows:

- to grant the licence subject to conditions consistent with the operating schedule accompanying the application, and any mandatory conditions which must be included in the licence
- to exclude from the scope of the licence any of the licensable activities to which the application relates;
- to refuse to specify a person in the licence as the premises supervisor;
- to reject the application

5.2 Conditions may be altered or omitted, or any new condition added.



- 5.3 Additional conditions or restrictions to licensable activities and/or times should only be imposed if considered appropriate for the promotion of the licensing objectives. If other law already places certain statutory responsibilities on a premise, it would not be appropriate to impose similar duties.
- 5.4 Members of the Sub Committee should be advised that the applicant, or any other person who made relevant representations in relation to the application, may appeal against the decision made to the Magistrates' Court within 21 days of the date on which they were notified.

6. Implications

<p>Resources:</p>	<p>There are no direct strategic resource implications associated with this application.</p> <p>In respect of premises licence applications, we do not foresee any issues in respect of sustainability of proposals.</p> <p>The application relates to a privately owned property.</p>
<p>Legal and Governance:</p>	<p>Members of the Licensing Sub Committee when making their decision on the application must take into account the four licensing objectives, the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy. The applicant and those who have made relevant representations have the right to appeal the decision made by the Licensing Sub Committee to the Magistrates Court, so the Committee are asked to give reasons for their decision wherever possible.</p> <p>Members of the Sub-Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the applicant and/or the licence holder and shall only determine the application having had an opportunity to consider all relevant facts.</p>



Risk:	<p>The Police are a statutory consultee for all Licensing Act 2003 applications. Prevention of Crime and Disorder is one of the four licensing objectives and applicants have to demonstrate how they will achieve this objective by volunteering measures in the operating schedule submitted with the Licence application.</p> <p>The Police have not made a representation to this application.</p> <p>Whilst full details of the application and any representations have been shared with the committee members, only information that is in the public domain has been made available for the reports that have been made public online, in line with data protection protocols.</p>
Equality:	<p>The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.</p> <p>The operators of this premises are responsible for complying with all relevant legislation.</p>
Health and Wellbeing:	<p>This is not applicable to applications for premises licences submitted under the Licensing Act 2003.</p>
Social Value	<p>This is not applicable to applications for premises licences submitted under the Licensing Act 2003.</p>
Climate Change	<p>This is not applicable to applications for premises licences submitted under the Licensing Act 2003.</p>
Corporate Parenting:	<p>This is not applicable to applications for premises licences submitted under the Licensing Act 2003.</p>

7. Appendices

- Appendix 1 – Application Form and Consent
- Appendix 2 – Plan
- Appendix 3 – Location Plan
- Appendix 4 – Representations



8. Background Papers

- Sandwell Metropolitan Borough Council Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003
- The Licensing Act 2003 (Hearings) Regulations 2005

