



LICENSING AUTHORITY: SWALE BOROUGH COUNCIL

**LICENSING ACT 2003
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

NOTICE OF DETERMINATION

Application Ref No: FAV/SWALE/189/0718

Applicant: Spice Lounge Ltd

Regarding: **PREMISES LICENCE**

Date(s) of hearing: 14th June 2019

Date of determination: 14th June 2019

Committee Members: [Chairman]: Councillor Roger Clark
Councillor Richard Darby
Councillor Carole Jackson

Legal Advisor in attendance at hearing(s): Robin Harris

Licensing Officer in attendance at hearing(s): Chris Hills

This was an application for:

- ☐ Variation ☒ Grant
☐ Provisional Statement ☐ Review ☐ Other

for a

- ☒ Premises Licence ☐ Club Premises Certificate ☐ Personal Licence
☐ Temporary Event Notice

A: Representations, evidence and submissions:

The Committee considered the representations, evidence and submissions of the following parties:

Applicant

- Name: Rufsana Al-Din
- Legal or other representative: Gary Dolan

Responsible Authorities

b) Police

- Name: PC Chris Hills
- Name: PC Dan Hunt

c) Fire & Rescue Service

Other Persons

Witnesses and legal representatives in support of interested parties

- N/A

Representations considered in the absence of a party to the hearing:

- N/A

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council

The Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto:

Section 13 which relates to responsible authorities;
Section 16-24 which relate to the grant of a premises licence;
Section 136 which relates to unauthorised licensable activities;
Schedule 2 which relates to Late Night Refreshment

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives

Chapter 8 & 9 which relates to premises licences & determinations

Chapter 10 which relates to conditions attached to licences;

The Committee has taken into account the following provisions of its Statement of Licensing Policy:

Chapter 19 which relates to the 4 licensing objectives;

Chapter 20 which relates to the prevention of crime and disorder;

Chapter 21 which relates to public safety

Chapter 22 which relates to the prevention of nuisance;

Chapter 23 which relates to the prevention of children from harm;

The Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

N/A

Paragraphs and reasons (state in full):

C: Determination:

The Committee has decided to:

- grant the application

Reasons for determination:

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub-Committee had regard to all the evidence provided in the report pack and listened carefully to what was said by all parties at the hearing. The Members noted that a previous Sub-Committee had revoked a premises licence previously held at this address but currently still operational due to a live appeal in the Magistrates Court.

The Sub-Committee heard from the applicant that she was new to the restaurant business and had only recently passed the exam to be a personal licence holder. She had relied upon legal advice in relation to decisions made regarding the licensing of the premises and accepted that better decisions could have been made. The applicant stated that she was unaware and did not believe that the licence

holder or DPS would be responsible for the employees present at the premises in the past, however, her legal advisor confirmed that this was in fact the case.

The applicant confirmed that all staff presently working in the premises are British citizens and that she would personally check the paperwork of any other (non British) staff who were employed in the future. The applicant was very clear that she understood her obligations and would not risk criminal conviction or heavy fines through the employment of staff that did not have the right to work in the UK.

The applicant stated that she had not deliberately misled the Police regarding the previous licence holder's continued presence at the property this was simply an error. In the event that a premises licence was granted the previous licence holder would no longer be at the premises.

The Sub-Committee heard from the Police that the applicant was on friendly terms with the previous licence holder, had purchased only the chattels of the business for a modest sum and had made poor decisions in relation to the continued association with the previous licence holder. This was not consistent with the knowledge and skills expected of a personal licence holder and gave cause for concern that the applicant would not be able to run the premises in accordance with the licensing objectives, despite accepting that the applicant had entirely good intentions.

In determination, the Sub-Committee considered that the applicant had been naïve in relation to the dealings with the property. The Sub-Committee felt that there was a real and justifiable concern regarding the previous licence holder continuing to have influence over the running of the premises. However, it was not possible for the Police to prove that the previous licence holder would still have influence at the property and it would also not be possible for the applicant to prove the negative.

On a majority decision only, the Sub-Committee decided to give the applicant the benefit of the doubt. The Sub-Committee noted that the applicant was not greatly experienced and accepted that there had been poor advice. But, the steps taken in respect of other licensing objectives and the steps taken subsequently to ensure the applicant was properly advised and represented in respect of today's hearing was indicative that the applicant had now fully grasped what was required in respect of the licensing objectives. Finally, in the event of any future breach of this licensing objective there remains the ability to swiftly review the premises and if necessary, revoke the licence.

Public Safety

Reasons (state in full):

The Sub-Committee noted that substantial works have been carried out at the premises in order that it meets this licensing objective.

■ **Prevention of nuisance**

Reasons (state in full):

The Sub-Committee were satisfied that the operating schedule is sufficient to meet this licensing objective.

■ **Protection of children from harm**

Reasons (state in full):

The Sub-Committee were satisfied that the operating schedule is sufficient to meet this licensing objective.

PRINT NAME (CHAIRMAN): Roger Clark



Signed [Chairman]: A copy of the original document is held on file

Date: 14th June 2019

