



Doncaster Council

Report

12 March, 2018

To the Chair and Members of the

LICENSING SUB-COMMITTEE

Licensing Act 2003 – Application for a New Premises Licence.

Brasov Food & Veg, 87 Nether Hall Road, Doncaster, DN1 2QA

EXECUTIVE SUMMARY

1. To request that members of the Sub-Committee determine the application for a new premises licence in respect of Brasov Food & Veg, 87 Nether Hall Road, Doncaster, DN1 2QA. The procedure for considering the application is set out at Appendix A.

RECOMMENDATIONS

2. It is recommended that the Sub-Committee determine this application having regard to the representations made and the evidence before it.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

3. The Licensing Act 2003 requires the Licensing Authority to exercise its obligations on licence applications which are the subject of representations.

BACKGROUND

4. The premises are currently operating as a greengrocer's. The application submitted sought to permit the sale of alcohol for consumption off the premises, 09.00am to midnight 7 days a week.
5. The premises are located in an area that is subject to a cumulative impact policy namely Area 2 – Part of the Town Ward. (Section 7 – Doncaster Council's Statement of Licensing Policy 2016 – Licensing Act 2003)
6. In order to prevent a representation from South Yorkshire Police, the applicant has agreed to amend his application by reducing the hours for the sale of alcohol and proposing that additional conditions be placed on the licence

should it be granted. These amendments are shown in the summary of application, at Appendix B.

7. A location plan of the premises is attached at Appendix C.
8. A copy of the application is attached at Appendix D.
9. Under the Licensing Act 2003, statutory guidance issued under section 182 of the Act and the Licensing Authority's statement of Licensing Policy, any licensing application under the Act in respect of which representations have been made to the Licensing Authority and which have not been withdrawn or resolved by mediation fall to be determined by the Licensing Sub-Committee having regard to the evidence before it.
10. Representations regarding the application have been received from 2 Responsible Authorities, Licensing & Public Health. Copies of the representations are attached at Appendix E.
11. The agreement between the applicant and South Yorkshire Police is attached at Appendix F.
12. A copy of the application has been sent to each of the Responsible Authorities. Details of the application have been published on the Council website.

OPTIONS CONSIDERED

13. The Licensing Act 2003 requires the Licensing Authority to exercise its obligations on licence applications, which are the subject of representations and therefore no other option other than to hold a hearing can be considered.
14. Where the Licensing Authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
 - Grant the licence subject to conditions which are consistent to the operating schedule, modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and those conditions which are mandatory.
 - 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.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

15.

| | Outcomes | Implications |
|--|---|--|
| | Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and | It is recognised that Licensed premises are, quite often, businesses and places of employment. |

| | | |
|--|---|---|
| | <p>Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment | <p>The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives, will have regard to this outcome when making licensing decisions.</p> <p>The licensing objectives are:</p> <ol style="list-style-type: none"> 1. Prevent crime and disorder 2. Prevent public nuisance 3. Public safety 4. Protection of children from harm |
| | <p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage | <p>The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions.</p> |
| | <p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better <p>Learning in Doncaster prepares young people for the world of work</p> | <p>The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions.</p> |
| | <p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from | <p>The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome</p> |

| | | |
|--|---|--|
| | someone they trust <ul style="list-style-type: none"> • Older people can live well and independently in their own homes • | when making licensing decisions. |
| | Connected Council: <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance | The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions. |

RISKS AND ASSUMPTIONS

16. There are no risks or assumptions other than those referred to in the Legal Implications below.

LEGAL IMPLICATIONS MCChurchman Date 7/2/18

17. The Licensing Authority must ensure it complies with its obligations under the Licensing Act 2003 and associated Regulations which includes, but is not limited to the following:-

In considering an application, the committee must have regard to the 4 licensing objectives as referred to above and take into account of the statutory guidance issued by the Home Office and the Council's statement of licensing policy. The committee shall consider the application in accordance with both the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation. The committee must make its decision based on evidence submitted in accordance with the legislation and give reasons for reaching its decision.

An appeal against the decision of the licensing authority may be made to the Magistrates' Court.

Legal advisors shall be present at the hearing to give specific legal advice.

FINANCIAL IMPLICATIONS - R Taylor 05/02/2018

18. The costs associated with the application and their determinations are met from fees paid to the Council by applicants for Premises Licences under the Licensing Act 2003 and there are no further financial considerations.

HUMAN RESOURCES IMPLICATIONS

19. Not applicable

TECHNOLOGY IMPLICATIONS

20. Not applicable

EQUALITY IMPLICATIONS

21. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

CONSULTATION

22. Copies of the application form have been sent to all relevant Responsible Authorities referred to in Section 13 of the Licensing Act 2003. These are:

South Yorkshire Police

South Yorkshire Fire and Rescue Authority

Doncaster Council – Licensing Authority

Doncaster Council - Planning Services

Doncaster Council - Health & Safety Enforcement

Doncaster Council – Environmental Protection - Enforcement

Doncaster Council - Trading Standards

Doncaster Safeguarding Children Board

Doncaster Council - Public Health

Home Office - Immigration Enforcement

BACKGROUND PAPERS

- 23. Doncaster Council's Statement of Licensing Policy 2016
- 24. Home Office Guidance issued under section 182 of the Licensing Act

REPORT AUTHOR & CONTRIBUTORS

David Smith, Licensing Officer
Telephone: 01302 862546
Email: david.smith@doncaster.gov.uk

Marie-Clare Churchman, Senior Legal Officer
Telephone: 01302 736722
Email: marie-clare.churchman@doncaster.gov.uk

Richard Taylor, Finance Manager
Telephone: 01302 737984
Email: richard.taylor@doncaster.gov.uk

Peter Dale
Director of Regeneration and Environment

APPENDIX A

PROCEDURE FOR CONSIDERING APPLICATIONS

DONCASTER METROPOLITAN BOROUGH COUNCIL

LICENSING ACT 2003

LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

INFORMATION FOR APPLICANTS AND OTHER PARTIES

1. Meaning of Expressions used in this Document

| | |
|--|---|
| <i>"the Act"</i> | - Licensing Act 2003 |
| <i>"the Regulations" or any particular reference to a "Regulation"</i> | - The Licensing Act 2003 (Hearings) Regulations 2005 |
| <i>"the Authority"</i> | - Doncaster Metropolitan Borough Council, in its capacity as the relevant licensing authority under the Act, or where the context so admits the Committee |
| <i>"the Committee"</i> | - the Sub-Committee of the Authority's Licensing Committee constituted under the Act to determine the matter before it |
| <i>"the Chair"</i> | - the member of the Committee appointed to act as Chairperson of the Committee |
| <i>"the Applicant"</i> | - the party making the application e.g. the licence/certificate holder or prospective holder, or the party seeking a review |
| <i>"interested parties"</i> | - those living or working in the vicinity of the premises and who have made representations, or bodies representing them |
| <i>"responsible authorities"</i> | - the public or other bodies described in the Act as "responsible authorities" and who have made representations |

2. Rights of attendance, assistance and representation at hearings

- (a) A party may attend the hearing and may be assisted or represented by any other person. There is no requirement that a party's representative is legally or otherwise professionally qualified.
- (b) The hearing shall take place in public, unless the authority decides to exclude the public from all or part of the hearing because it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public. A party and any person assisting or representing a party, may be treated as a member of the public.
- (c) The Authority may exclude from a public hearing any person attending who acts in a disruptive manner, and refuse to re-admit that person, or impose conditions on his/her re-admission. Any such excluded person may, before the end of the hearing, submit to the Authority in writing any such information that he/she would have been entitled to give orally.
- (d) The Authority may dispense with a hearing if all of the persons required by the Act agree that a hearing is unnecessary, have given notice to the Authority that they consider a hearing to be unnecessary, and the Authority have given notice to all parties that the hearing has been dispensed with.

3. Non-attendance of a party at the hearing

- (a) If a party has informed the Authority that he/she does not intend to attend the hearing, or be represented at the hearing, the hearing may proceed in his/her absence.
- (b) If a party who has not so notified the Authority does not attend either in person or by his/her representative, the Authority shall adjourn the hearing to a specified date if it considers it in the public interest to do so, but it shall otherwise proceed with the hearing in that party's absence.
- (c) Where the hearing proceeds in the absence of a party, the Authority shall consider the application, representations or notice made by that party.
- (d) Where the hearing is adjourned, the Authority shall forthwith, notify the parties of the date, time and place to which the hearing has been adjourned.

4. Procedure at the Hearing

The hearing shall take the form of a discussion led by the Authority. The following procedure is intended to give form to such a discussion to ensure that all parties are able to put their case. Each party shall have equal maximum time in which to address the Committee. The Committee may take into account documentary or other information provided by a party before the hearing, or with the consent of all other parties at the hearing. The Committee may change the procedure in individual cases, upon the application of a party, or upon its own motion, if it considers it necessary to properly determine the business before it.

- (a) At the commencement of the hearing, the Chair will make introductions and establish that all parties understand the procedure to be followed. The Committee will then receive and determine any application that a party may wish to make to permit another person to appear at the hearing, and any application that any party wishes to make to vary the following order of addresses.
- (b) The Applicant may then address the Committee and provide any further information that the Authority have requested. At the conclusion of the Applicant's address, members of the Committee may ask the Applicant questions. Following questions by Committee members, any other party that wishes to question the Applicant may request permission to do so. If granted, the party or parties receiving permission may question the Applicant.
- (c) Other parties entitled to address the Committee or given permission to do so under paragraph (a) above, may then do so; and also provide to the Committee that the Authority have requested. Following the address, the members of the Committee may question the party addressing the Committee. Following any Committee questions, any other party wishing to question the party that has addressed the Committee may seek the Committee's permission to do so. If granted, the party or parties receiving permission may question the Applicant.

Order of Addresses under paragraph (c)

Subject to any direction given by the Committee under paragraph (a) above, the order of addresses by other parties, under paragraph (c) above, shall be:-

- [1] Any representative of a "responsible authority" (as defined in the Act)
- [2] Any other party opposing the Applicant
- [3] Any other party not falling within category [1] or [2] above, or category [4] below
- [4] Any other party supporting the Application

Permission to question or cross-examine the Applicant or other party

A party may question any other party appearing if given permission by the Authority.

The Committee will determine any application by a party to question another party on its merits.

Cross examination shall not be permitted unless the Authority considers that cross examination is required for it to consider the representations, application or notice, as the case may require.

The Committee shall determine any application by one party to permit cross examination of another on its merits.

Normally, permission will be given to one party to question or cross-examine another, only where:-

- (i) a material fact put forward by one party is disputed by another party and the dispute can be properly determined, only if cross examination is permitted; or
- (ii) the question that one party wishes to put to the other is non contentious and is for the purpose of clarification only.

5. The Committee's Deliberations and Determination

- (a) The Authority considers that normally, it will be in the public interest that the deliberations of the Committee are conducted in private. Deliberations will take place in private unless, an application is made by any party present for these to be conducted in public. If any such application is made, the Committee shall determine such application.
- (b) Subject to paragraph (a) above, the Chair shall formally exclude the public including, the parties and their representatives from the meeting under Regulation 14(2), to enable the Committee to deliberate in private. The Committee shall deliberate only in the company of its legal adviser. The function of the legal adviser shall be to advise the Committee on points of law and procedure only.
- (c) If during its deliberations, the Committee require any further information from any party in order to assist in its deliberations, the Chair shall reconvene the public hearing for the purpose of attempting to secure that further information.
- (d) Following the Committee's deliberations, the public shall be re-admitted to the hearing, whereupon the Chair shall announce the determination of the Authority, where the provisions of the Act or the Regulations require a determination to be made at the conclusion of the hearing, or otherwise where the Committee is unable to announce its determination.

- (e) Following the announcement of any determination of the application, representations or notice before the Committee, the hearing shall conclude.

6. Record of proceedings

A record of the hearing will be taken in a permanent and intelligible form. Any such record will be kept for a period of six years from the date that the application or review is finally determined (including, in either case, any appeal or judicial review).

Name of Applicant: Mr Hadi Mamad Salem

Name of Premises: Brasov Food & Veg

Address: 87 Nether Hall Road, Doncaster, DN1 2QA

Summary of Application:

For full details please see copy of application at Appendix D.

| | Sale of Alcohol (Off only). | Opening Hours. |
|-------------|----------------------------------|--------------------------|
| | Licensed Area (see Plans) | Whole of Premises |
| Mon | 09:00 - 23:00 | 09:00 - 23:00 |
| Tues | 09:00 - 23:00 | 09:00 - 23:00 |
| Wed | 09:00 - 23:00 | 09:00 - 23:00 |
| Thur | 09:00 - 23:00 | 09:00 - 23:00 |
| Fri | 09:00 - 23:00 | 09:00 - 23:00 |
| Sat | 09:00 - 23:00 | 09:00 - 23:00 |
| Sun | 09:00 - 23:00 | 09:00 - 23:00 |

Non Standard Timings:

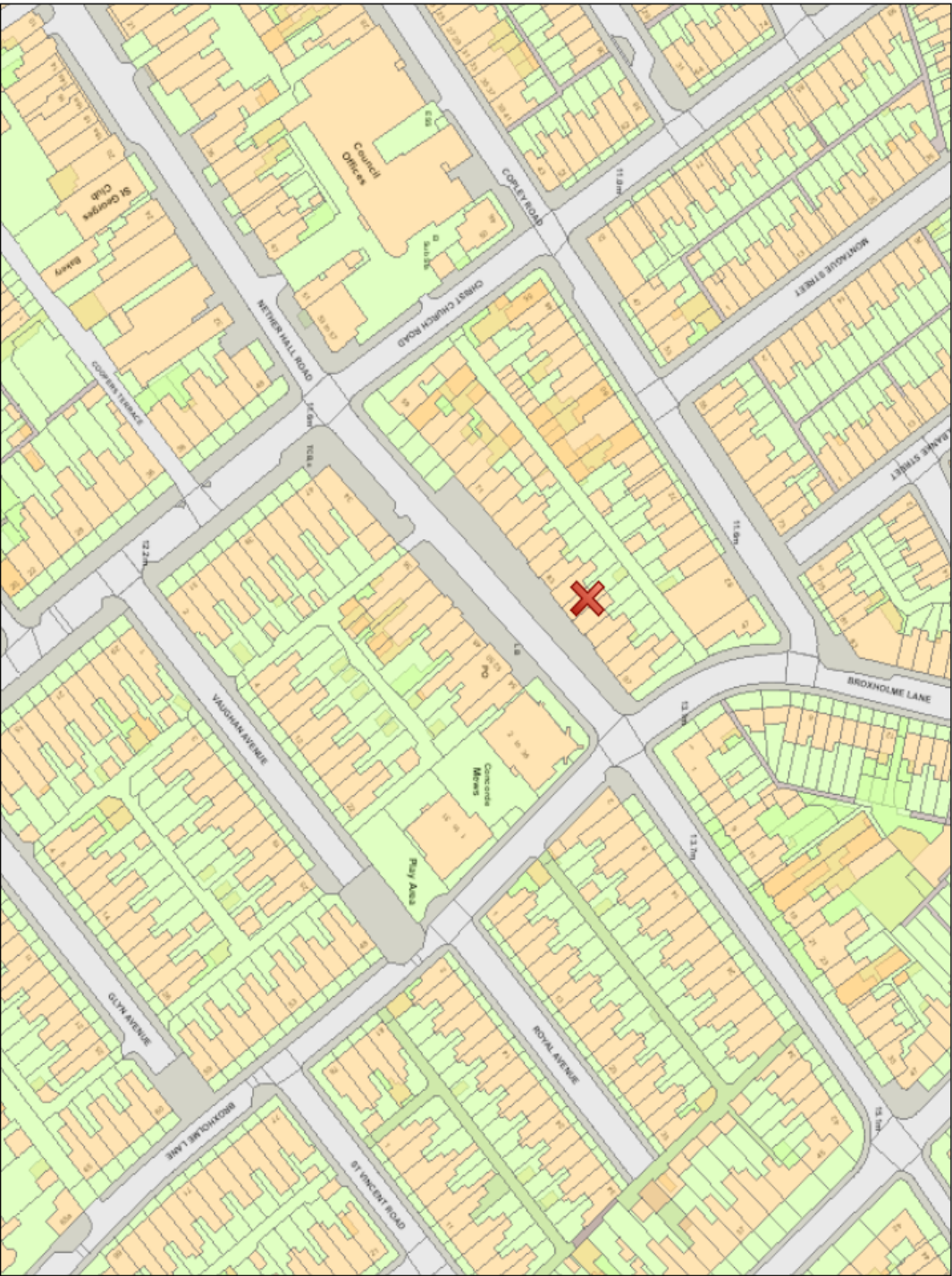
None

Additional Conditions agreed with South Yorkshire Police

- The Challenge 25 scheme must operate including a refusals log, signage and the maintenance of staff training records.
- A CCTV system will be fitted, maintained and in use at all times whilst the premises are open. The CCTV images will be stored for 28 days and police and authorised officers of the council will be given access to images for purposes in connection with the prevention and detection of crime and disorder. Members of the management team will be trained in the use of the system.
- No singular alcoholic drinks, including beer, lager & cider in cans will be sold; a minimum purchase of 4 will be required.
- No Beers, Lager or Cider above 6.5% ABV to be sold at these premises.

Location Plan

APPENDIX C



Doncaster
Metropolitan Borough Council

Key :



premises location

Notes :

87 Nether Hall Road
Doncaster
DN1 2QA

Title :

Brasov Food & Veg

Completed By :

DSmith

Reference :

WK/217021845

Date :

05/02/2018

Scale :

1:1,563