

TITLE: APPLICATION FOR THE GRANT OF A NEW PREMISES LICENCE – LICENSING ACT 2003

Committee: Licensing (Statutory) Sub-Committee

Date: 1 June 2023

Author: Senior Licensing Officer

Report No: Y6

Contact Officer:

Stewart Broome, Senior Licensing Officer

01353 616477, Stewart.broome@eastcamb.gov.uk

1.0 PURPOSE/SUMMARY OF REPORT

1.1 To determine an application for the grant of a new premises licence in respect of Indian Edge, 9A Broad Street, Ely, Cambridgeshire, CB7 4AJ.

2.0 RECOMMENDATION(S)

2.1 That Members consider the content of this report, and determine the application in accordance with the options contained in paragraph 4.2 of this report.

3.0 BACKGROUND/OPTIONS

3.1 Premises History

In 2022, the applicant successfully applied to change the property's planning consent¹ to allow it to be used as a restaurant. This new permission restricted the use to internal dining and take-away facilities between the hours of 12:00 to 22:00 Monday to Sunday.

Until 2022 the premises were used for retail purposes.

¹ *Planning consent granted under LPA ref. 22/00512/FUL which consented to the change of use (these being Mon-Sun 12:00-22:00 hours only – Condition 7 of the consent).*

Details of the new application

3.2 On 19th January 2023 Indian Food (ELY) Limited applied for a Premises Licence under section 17 of the Licensing Act 2003 for 9A Broad Street Ely Cambridgeshire CB7 4AJ, trading as Indian Edge (**Appendix 1**). The application was served on the responsible authorities and advertised in accordance with the regulations of the Licensing Act 2003.

3.3 The application proposes to run as an Indian restaurant providing food and drink for internal dining and take away purposes. To support this the applicant requested the following:

Table 1

Licensable Activity	Proposed Hours
Sale by Retail of Alcohol for consumption on and off the premises	17:00 to 23:00 Sunday to Thursday
	17:00 to 00:00 Friday & Saturday
Late Night Refreshment (indoors)	23:00 to 00:00 Friday & Saturday
Recorded Music (indoors) – limited to background music only	17:00 to 23:00 Sunday to Thursday
	17:00 to 00:00 Friday & Saturday
Opening Hours	17:00 to 23:00 Sunday to Thursday
	17:00 to 00:00 Friday & Saturday

3.4 The plans of the premises can be found at **Appendix 2**.

3.5 The applicant offered steps that they are willing to take to promote the licensing objectives. These can be found in **Appendix 3** to this report.

Relevant Representations

3.6 During the consultation period the Licensing Authority received no representations from any responsible authorities.

3.7 A total of four valid representations were received from other persons permitted by the Licensing Act 2003 to submit representations. All four representations raised concerns regarding the proposed extended trading hours to those permitted on the Planning Consent and the additional noise and disturbance this would cause to local residents into the night-time hours. These can be found at **Appendix 4**.

3.8 During the consultation period the applicant agreed to amend his application to match the hours to those permitted by their planning permission. The agreed amended hours are shown in Table 2 below. The licensee’s written agreement can be found at **Appendix 5**.

Table 2

Licensable Activity	Proposed Hours
Sale by Retail of Alcohol for consumption on and off the premises	Monday to Sunday 12:00 to 22:00
Late Night Refreshment (indoors)	No longer required
Recorded Music (indoors) – limited to background music only	Monday to Sunday 12:00 to 22:00
Opening Hours	Monday to Sunday 12:00 to 22:00

3.9 Officers contacted those persons who had submitted representations, and agreement was reached with them to dispense with the need to hold a full hearing, providing any licence granted did not exceed the hours shown in Table 2 above. Confirmation of this can be seen in **Appendix 6**.

4.0 CONCLUSIONS/DETERMINATION OF APPLICATION

4.1 Members are obliged to determine this application with a view to promoting the licensing objectives which are:

- The prevention of crime and disorder
- The prevention of public nuisance
- Public safety
- The protection of children from harm

In making their decision Members are also obliged to have regard to the Statutory Guidance issued under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy. Should Members depart from either they must specify their reasons for doing so. Members must also take into account the information contained within this report.

4.2 Members can determine the premises licence application as follows:

- a) to grant the premises licence subject to:
- (i) the conditions that are consistent with the operating schedule accompanying the application modified to such extent as Members consider appropriate for the promotion of the licensing objectives; and
 - (ii) any mandatory conditions that must be included in the licence;
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the premises supervisor; or
- a) to reject the application.

4.3 When determining this premises licence application, Members are asked to consider the following matters:

- (a) no representations were received from the responsible authorities consulted.
- (b) the agreement reached between all parties reduces the scope of the application originally submitted;
- (c) it is considered by officers that the amendment would have no adverse effect on the general public or any responsible authority;
- (d) both the applicant and those who submitted representations have agreed to dispense with a formal sub-committee hearing, as a result of the amendments in Table 2.

4.4 In determining the premises licence application, Members must provide the reasons for their decisions, and consider their responsibilities under the Human Rights Act 1998, when balancing the rights of the applicant and the rights on those who may be affected.

4.5 If Members believe that the agreement reached satisfies them that the

licensing objectives will be upheld, Members can agree with the applicant and those making representation, and dispense with the need to hold a hearing, and Members may determine the application without hearing any verbal evidence from the applicant or person/body who submitted a representation. If Members still consider the application could have a detrimental impact on one of the licensing objectives, and believe it is in the public interest, they may adjourn the determination, and invite all parties to attend a hearing on a future specified date to answer their questions

4.6 In determining the premises licence application, Members must provide the reasons for their decisions, and consider their responsibilities under the Human Rights Act 1998, when balancing the rights of the applicant and the rights on those who may be affected.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

5.1 The cost of convening a Licensing (Statutory) Sub-Committee to determine an application is covered by the fees paid by licence applicants.

5.2 Should there be a decision to modify the premises operating schedule, exclude a licensable activity from the scope of the licence, refusal to specify a person as the designated premises supervisor or reject the application, the applicant can appeal to the Magistrates' Court. There will be costs associated with this process. The right of appeal is 21 days from the date of notification of the decision.

5.3 Any party who made relevant representations in relation to the application may appeal the decision. There will be costs associated with this process. The right of appeal is 21 days from the date of notification of the decision.

5.4 Equality Impact Assessment (EIA) is not required, as this does not relate to a service provided by the Council or a decision on a change of policy, but an application for a licence by an individual/ organisation.

6.0 APPENDICES

6.1 Appendix 1 Application form

6.2 Appendix 2 Plan of the premises

6.3 Appendix 3 Premises licence operating schedule conditions

6.4 Appendix 4 Representations from other persons

6.5 Appendix 5 Licensee's written agreement to amend trading hours

6.6 Appendix 6 Objectors agreements to dispose of the need for a hearing

Background Documents:

Licensing Act 2003

Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, December 2022

ECDC Statement of Licensing Policy 2021