

COMMITTEE: LICENSING PANEL

DATE: 6th FEBRUARY 2012

**SUBJECT: APPLICATION FOR VARIATION OF PREMISES LICENCE –
BAR ESPRESSO, 39-41 NEW BEDFORD ROAD LUTON**

REPORT BY: HEAD OF ENVIRONMENTAL AND CONSUMER SERVICES

CONTACT OFFICER: TONY IRELAND

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IMPLICATIONS:

LEGAL ☐

COMMUNITY SAFETY ☐

EQUALITIES ☐

ENVIRONMENT ☐

FINANCIAL ☐

OTHER ☐

STAFFING ☐

WARDS AFFECTED: BISCOT

PURPOSE

1. The purpose of this report is to enable the Licensing Panel to consider the application received from Shila Morimoto, for the variation of a Premises Licence in respect of Bar Espresso 39-41 New Bedford Road Luton.

RECOMMENDATION

2. **That the Licensing Panel determine the application of Shila Morimoto for the variation of a Premises Licence in respect of Bar Espresso, 39-41 New Bedford Road, Luton.**

BACKGROUND

3. An application was received on 23rd December 2011 for the variation of the Premises Licence that will allow regulated entertainment, supply of alcohol on and off the premises and late night refreshment to take place.
4. The Applicant states that the premises is a coffee/bar/cafe, located on New Bedford Road in the Biscot Ward (on the edge of South Ward). A map showing the location of this Premises, along with an aerial image, and a plan of the premises submitted by the applicant, is attached at Appendix A (page 7/12).

5. Details of the licensable activities currently available together with details of the licensable activities requested are set out as follows:

Licensable Activity	Currently permitted	Applied for	Licensable Activity	Currently permitted	Applied for
<u>Regulated entertainment</u>			<u>Provision of facilities for entertainment</u>		
Plays			Provision of entertainment facilities for making music	✓	✓
Films	✓	✓	Provision of entertainment facilities for dancing	✓	✓
Indoor Sports Events			Provision of entertainment facilities for entertainment of a similar description to making music or dancing		
Boxing or Wrestling Entertainment			<u>Late night refreshment</u>		
Live Music	✓	✓	Provision of late night refreshment	✓	✓
Recorded Music	✓	✓	<u>Supply of alcohol</u>		
Performances of Dance	✓	✓	Supply of alcohol for consumption both on and off the premises	✓	✓
Anything of a similar description to live or recorded music or dance					

Details of activities currently authorised are as follows:

DAYS	Times currently authorised by licence					
	Times premises will open to public	Supply of alcohol	Live music ¹ , recorded music ²	Provision of facilities for making music ⁴ , dancing ⁵	Films ⁶ , Performances of dance ⁷	Late night refreshment
<u>Standard hours</u>						
Monday – Thursday	07.00-05.00	07.00-05.00	07.00-05.00	07.00-05.00	07.00-05.00	23.00-05.00
Friday – Saturday	07.00-05.00	07.00-05.00	07.00-05.00	07.00-05.00	07.00-05.00	23.00-05.00
Sunday	07.00-05.00	07.00-05.00	07.00-05.00	07.00-05.00	07.00-05.00	23.00-05.00

¹ Live acoustic and amplified music, and amplified voice.

² Including jukebox and karaoke, with or without DJ, during normal business and including audience participation.

³ Comperes for quiz and similar events, comedians and similar performance, in any case using amplified voice.

⁴ A stage area with lighting, microphone and amplifiers, and similar equipment.

⁵ Hard floored area which can be used for dancing by customers and performers.

⁶ Video entertainment on TV screens and amusement machines.

⁷ Dance facilities to be used for performances and competitions as well as by customers.

6. In addition to the above, the following non standard timings are sought by the applicant:

None

7. The Applicant has sought the following seasonal variation:

None

8. The following adult entertainment or activities that may give rise to concern in respect of children are detailed as follows:

None

9. The applicant has requested that the following conditions, terms or restrictions currently imposed on the licence be removed/amended as a consequence of the variation being sought:

Annex 2: Conditions requesting to be removed

CONDITION 1 – Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meals.

CONDITION 2 – That suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served on the premises.

CONDITION 3 – Not to admit any person carrying open or sealed bottles or glasses on to the premises at any time.

CONDITION 4 – Not to permit any person to take open containers of alcoholic or soft drinks from the premises.

CONDITION 5 – All bottles and glasses to be removed from public areas and tables as soon as they are finished with or are empty.

CONDITION 8 – A large group policy to be in place, whereby they are required to nominate a responsible person to liaise with staff.

CONDITION 17 – The Fire Brigade to be called to any outbreak of fire when disabled persons are on the premises, adequate arrangements are to be made to ensure their safe evacuation in the event of an emergency.

CONDITION 19 – There is to be no smoking at the bar. Designated non-smoking area to remain.

CONDITION 20 – Groups with children to be given priority to dine in the non-smoking area of the restaurant.

CONDITION 24 – Management to ensure that loitering outside the premises does not take place.

The applicant has requested that the following conditions to be amended;

Annex 2:

CONDITION 6 - The management to ensure that at any given time the number of persons permitted in the restaurant does not exceed the capacity limit.

Amend to read – Management to ensure capacity is not exceeded

Conditions agreed by Police Licensing Officer

Condition 1 - The premises to adopt a Challenge 21 Policy whereby persons purchasing alcoholic drinks or who are having such drinks purchased for them who appear to be under the age of 21 will be asked to prove that they over the age of 18. The only acceptable forms of identification will be a bona fide passport, a photo-style driving licence or an ID card displaying the PASS hologram logo.

Applicant is requesting to amend the Challenge 21 Policy to Challenge 25.

10. The latest date for representations to be received was the 20th January 2012.

PROMOTION OF LICENSING OBJECTIVES

11. The operating schedule submitted by the applicant describes the additional steps they intend to take in order to promote the licensing objectives. These are as follows:

General

Accept conditions if amended

The Prevention of Crime and Disorder

Accept conditions if amended

Public Safety

Accept conditions if amended

The Prevention of Public Nuisance

Accept conditions if amended

The Protection of Children from Harm

Accept conditions if amended

A copy of the application form, including the operating schedule, is attached at Appendix B (pages 7/13 – 7/39).

RESPONSIBLE AUTHORITIES

12. Representations have been received from responsible authorities and are detailed as follows:

Police

A copy of the representation is attached at Appendix C (pages 7/40 – 7/47)

Fire and Rescue Services

None

Environmental Health or Health and Safety Executive

A copy of the representation is attached at Appendix C (pages 7/48 – 7/51)

Planning

None

Trading Standards

None

Child Protection

None

INTERESTED PARTIES

13. Representations have been received from the following interested parties, their representations are attached at Appendix D relevant appendix letter (pages 7/52 – 7/114) and made available to the applicant.

Ref. letter	Name	Address	Relevance to which licensing objective
<u>Local resident(s)</u>			
A	██████████	██████████	Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance Protection of Children from Harm

Ref. letter	Name	Address	Relevance to which licensing objective
B	Mrs B Rees	9 Collingdon Court, Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
C	██████	████████████████████	Prevention of Crime & Disorder Prevention of Public Nuisance
D	Mr M Bushby	17 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
E	Mrs F Williamson	20 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
F	Mr & Mrs Marshall (submitted additional letter)	22 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
G	Masor	24 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
H	Mrs I Slater	25 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
I	Mrs A Kair	26 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
J	Mrs E Goodwin	27 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
K	Mrs G Walters	30 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
L	Mr R Healey	31 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
M	Mrs J Yeates	32 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
N	Mr C Evans	40 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
O	Mrs Freeman	38 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
P	Mr & Mrs Naik	37 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance

Ref. letter	Name	Address	Relevance to which licensing objective
Q	E Murray	Warden's Office Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
R	Mr Waller	41 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
S	Mr Maguire	1 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
T	Mr & Mrs Ballantyne	3 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
U	Mrs Hewitt	4 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
V	Mr O Hara	5 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
W	Mrs Mumford	6 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
X	Mr Nasebett	7 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
Y	Mrs P Coyle	10 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
Z	Mrs Naigulevy	11 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
A1	Mr Bradshaw	12 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
A2	Mrs Kemp	15 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
A3	Mr Cox	16 Collingdon Court Collingdon Street	Prevention of Crime & Disorder Prevention of Public Nuisance
A4	D. H Harris – NuConcept	54 New Bedford Road	Prevention of Public Nuisance
A5	Richard Spong – Spong Properties Services Ltd	42 Westleigh Avenue Leigh-on-Sea	Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance

Ref. letter	Name	Address	Relevance to which licensing objective
A6	Andy Graham – Co-operative Funeral Care	37 New Bedford Road	Prevention of Public Nuisance

14. Where requested by the interested party, names and house numbers have been omitted from this report, but have been made available to the Licensing Panel and to the applicants.

POLICY CONSIDERATIONS

15. The following provisions of the Licensing Act 2003 apply to this application:
- Section 34 (variation of premises licence)

OBSERVATIONS

16. In determining this application, the Licensing Panel must, having regard to the representations received, either grant the application in full or take such of the following steps as it considers necessary for the promotion of the licensing objectives. The steps are:
- (a) Modify the conditions of the licence volunteered by the applicant in the operating schedule, by altering or omitting or adding to them
 - (b) Reject the whole or part of the application
17. The licensing objectives are:
- The Prevention of Crime and Disorder
 - The Prevention of Public Nuisance
 - The Protection of Children from Harm
 - Public Safety

All the representations received in respect of this application relate to these licensing objectives.

18. The following paragraphs of the licensing authority's statement of licensing policy applies to this application
- (28) Insert/delete relevant paragraphs
 Section 7 (Prevention of Crime & Disorder)
 Section 8 (Public Safety)
 Section 9 (Prevention of Public Nuisance)
 Section 10 (Protection of Children from Harm)
 Section 16 (Application Process)
19. Representations can only relate to the additional hours and activities that are requested: existing hours and activities are protected as 'grandfather rights'.

APPENDICES

The following Appendices are attached to this report:

Appendix A: Maps and plans showing location of the premises
(page 7/12)

Appendix B: Application form including the operating schedule
(pages 7/13 – 7/39).

Appendix C: Representations from Responsible Authorities
(pages 7/40 – 7/51).

Appendix D: Representation Forms from Interested Parties
(pages 7/52 – 7/114).

LIST OF BACKGROUND PAPERS **LICENSING ACT 2003**

Guidance issued under S182 of the Licensing Act 2003
Luton Borough Council's Statement of Licensing Policy