

SOUTHEND-ON-SEA CITY COUNCIL

Meeting of Licensing Sub-Committee A

Date: Wednesday, 12th April, 2023

Place: Committee Room 3 - Civic Suite

Present: Councillor M Borton (Chair)
Councillors A Jones and I Shead

In Attendance: A Brown, T Row, T Bahannack and B Dowsett

Start/End Time: 10.00 am - 10.45 am

868 Apologies for Absence

There were no apologies for absence.

869 Declarations of Interest

No interests were declared at the meeting.

870 Brakan, 1581 London Road Leigh-on-Sea SS9 2SG - Application for a Premises Licence

The sub-committee received a report of the Executive Director (Neighbourhoods and the Environment) concerning an application by The Brakan Brothers Limited for the grant of a Premises Licence at 1581 London Road Leigh-on-Sea SS9 2SG.

The application was presented on behalf of the applicants by Mr Osman (owner). Mrs G Osman (owner's wife) and Mr B Osman (father) also attended the meeting and gave evidence.

The sub-committee noted that no letters of objection to this application had been received from any of the Responsible Authorities, although conditions had been agreed with the Licensing Authority, acting as a Responsible Authority during the consultation period, should the application be granted. These conditions were set out in Appendix 2 to the submitted report of the Council's Executive Director (Neighbourhoods and Environment).

Nine (9) representations had, however, been received from local residents objecting to the application. None of the objectors attended the hearing although copies of their written representations were provided to the sub-committee. The sub-committee heard that one of the representations, namely from Mr Harrison and Mr Waters, had since been withdrawn following discussions with the applicant on the basis that certain conditions were met. However, these conditions did not appear to be met and therefore the sub-committee considered these objections as still being live.

The objections/representations essentially related to all four of the licensing objectives. In particular, the concerns related to number of licensed premises already located in the area in very close proximity to residential properties, the potential increase of disturbance to residents by intoxicated people through the sale of alcohol late in the area late in the evenings causing disruption to sleep and young families with children, the increase in litter from bottles, glasses, cigarette butts etc., the lack of car parking spaces and cars parking on the verges in the residential streets, loud music being played late at night, intoxicated/drunk people in doorways, the premises was described as a bar/restaurant and would be inconsistent with other similar business models in the area by selling alcohol with food, the number of premises in the area with permission for off-sales, the close proximity of the premises to schools in the area affecting children on their way home from school, the existing problems of noise and disturbance to residents would be exacerbated if the application was granted, the use of the premises as a flourishing daytime time economy in the shops would be preferred.

The sub-committee noted that the applicant had reduced the hours sought from 23.30 Sundays to Thursday and 00:30 Fridays and Saturdays to 22.00 hrs daily. The application now sought was on the following basis:

- The supply of alcohol for consumption on and off the premises daily from 12.00 (noon) to 22.00 hrs
- The hours the premises were open to the public daily from 09.00hrs to 22.30hrs

The sub-committee heard that the premises would be run as a family friendly café/restaurant/takeaway/delivery service serving local produce. Alcohol would be ancillary to a meal on the premises only. The permission for off-sales would be restricted for customers who may not have finished their wine/etc with their meal and wanted to take it home with them at closing time and would not be available for delivery. There was no intention of placing tables and chairs on the highway as the forecourt at the front of the premises would be used as a smoking area for patrons. This would be limited to a maximum of six persons at any one time. Glasses/glass bottles would not be permitted in this area or outside of the premises at any time. Alcohol would also not be permitted in the smoking area. The applicant also confirmed that receptacles for cigarette butts would be provided in the outside area and the forecourt would be swept clean at the close of business each night.

The sub-committee also heard that the applicant had contacted all those who had made representations to discuss their concerns. Unfortunately, only one of the objectors engaged with them in this regard. A copy of the email from the objector was circulated the meeting. The owner/occupier of the flat immediately above the premises had not objected to the application.

The number of licensed premises or the question of whether another premises is needed are not matters for the sub-committee to consider. There is no cumulative impact policy for this area. Additionally, in accordance with the guidance issued under the Licensing Act 2003, the premises are not responsible for the management of the behaviour of customers once they are beyond the direct management of the licence holder and their staff. The behaviour of such individuals is the responsibility of the individuals themselves under the law. An individual who engages in antisocial behaviour is accountable in their own right.

The Police and Environmental Health Service were both experts in their respective fields (paragraph 9.12 of the Revised Guidance issued under section 182 of the Licensing Act 2003 refers) and neither had objected to the application. Furthermore, a key protection for the community where problems associated with the licensing objectives occur, was the possibility of reviewing the licence.

At the meeting the sub-committee sought clarification of the plan for the premises to be attached to the licence as two separate plans had been included in the submission and whether the designated premises supervisor had been appointed.

In determining the application, the sub-committee listened to all the evidence and submissions and read all the documents. The sub-committee had regard to the Statutory Guidance Notes and Southend-on-Sea City Council's Statement of Licensing Policy. It considered the four licensing objectives namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

The sub-committee concluded that, on the basis of the evidence presented to it in respect of this application, there was insufficient evidence to substantiate that the concerns raised in the representations would occur or could be attributed to this premises, as they are not trading as a licensed premises yet, or that could not be addressed through the imposition of appropriate conditions.

The sub-committee therefore did not consider that the promotion of the licensing objectives would be undermined by the granting of the application, subject to the imposition of appropriate conditions. It therefore:

Resolved:-

That the application is therefore granted subject to:

(i) The Mandatory Conditions set out in Appendix 1 to the report of the Executive Director (Neighbourhoods and Environment);

(ii) The conditions drawn from the Operating Schedule, agreed with the Licensing Authority, as set out in Appendix 2 to the submitted report of the Executive Director (Neighbourhoods and Environment); subject to the following amendment to condition 15:

15) There shall be no use of any outside area, as shown on plan between 21.00 and 09:00 the following day, save as a smoking area. During those times, the maximum numbers of smokers shall not exceed six persons and notices shall be clearly displayed informing patrons of this. Waste receptacles shall be made available for smokers to use, and the area swept of associated litter at the end of each trading session.

and

(iii) the following additional condition:

"No open drinking vessels or glasses shall be permitted to be taken from the licensed area into the outside smoking area."

(iv) The grant of this licence shall have no effect until such time as the Licensing Authority has received written confirmation of the appointment of the Designated Premises Supervisor.

Chair: _____