

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Executive Director
(Neighbourhoods and the Environment)

To

Licensing Sub-Committee B

On

13 July 2021

Report prepared by: Paul Richards

Fellinis 34-36 Elm Road Leigh-on-Sea, Essex SS9 1SN
Application to Vary a Premises Licence

LICENSING ACT 2003

A Part I Public Agenda Item

1. Purpose of Report

This report considers an application by Mr Robert Sutherland of RDS Law, acting on behalf of Rococo (Leigh) Ltd, trading as Fellini's located at 34 – 36 Elm Road, Leigh-on-Sea, Essex SS9 1SN, to vary the Premises Licence.

2. Recommendation

2.1 That the Sub-Committee determines the application.

2.2 Should the Sub-Committee decide to approve the application, the relevant mandatory licence condition must be applied. (This is set out in Appendix 1).

2.3 Appendix 2 sets out conditions drawn from the operation schedule for the Sub-Committee's consideration.

3. Background

3.1 The premises is situated within a parade of commercial premises, on both sides of Elm Road. Some of the commercial premises have Residential premises above.

3.2 An application was served on Southend-on-Sea Licensing Authority on the 9th June 2020, for a new premises licence. The application attracted an objection from Leigh Town Council. On the 8th October 2020, The application was referred to the Licensing Sub-Committee B for a decision.

3.3 Councillor D Cracknell, attended the meeting and gave evidence on behalf of Leigh Town Council. The representation related to concerns of Public Safety and Public Nuisance, which are two of the four Licensing Objectives.

3.4 The Licensing Sub-Committee, granted the Licence and made the decision to prescribe a limit of the number of patrons permitted for the purpose of dining and drinking on the

terrace/balcony. The following Licence Condition was attached to the Premises Licence as Annex 3:-

- 1) The external terrace area shall be limited to a maximum of 16 (sixteen) patrons only, for the purposes of dining and drinking.

4. Proposals

- 4.1 This application is to vary the plans of the premises and increase the maximum capacity on the terrace to 48 persons. Alcohol will be served by waiter/waitress service to persons seated at tables on the terrace. Alcohol to be proved with food in this area.
- 4.2 The Licensable activities on the current licence will remain the same as on the existing licence.
- 4.3 This application was submitted to the Licensing Authority on the 2nd April 2021. The consultation period expired on 30th April 2021. The hearing was delayed due to local elections and at the request of the applicant.

5. Application Procedures

- 5.1 Copies of Applications for variation of a Premises Licence are required by law to be sent to all the "Responsible Authorities". The Applicant are also required to display a notice giving brief details of the application in a prescribed form at the application site for the duration of the consultation period, and to publish the same information in a newspaper circulating in the area.
- 5.2 I can confirm that the application process has been conducted in accordance of the Licensing Act 2003.
- 5.3 This Application attracted representations from Three (3) Responsible Authorities, Leigh Council, Environmental Health and Licensing objecting to the Application, which still remains unresolved. There are Two (2) representations from residents in support of the application.
- 5.4 Copies of the representations have been provided to the Sub-Committee Members. In accordance with the legislation, all parties have been invited to attend the hearing.

6. Matters for Consideration

- 6.1 Formal objections having been made and not withdrawn or resolved, the Licensing Authority is obliged to hold a hearing to consider them. Further, having regard to such representations, the Authority is required to take steps (if any) as it considers appropriate for the promotion of the Licensing Objectives.

Thus, the Authority may:

- a) Grant the licence, subject to conditions consistent with the operating schedule (modified as considered appropriate for the promotion of the Licensing Objectives) and subject to relevant mandatory conditions;
 - b) Exclude from the scope of the licence any of the licensable activities to which the application relates;
 - c) Refuse the application.
- 6.2 The Licensing Act 2003 requires that the Licensing Authority must carry out its functions under the Act with a view to promoting the Licensing Objectives. These are:

- a) The prevention of crime and disorder;
- b) Public safety;
- c) The prevention of public nuisance; and
- d) The protection of children from harm.

6.3 In carrying out its licensing functions, the Licensing Authority must also have regard to:

1. Its Licensing Statement, and
2. The guidance issued by the Secretary of State.

6.4 The Licensing Authority has, in accordance with the requirements of the Act, prepared and published a Statement of Licensing Policy, following formal consultation. Copies of this document, together with the statutory guidance, have been made available to all Licensing Committee Members.

7. Existing Licensing Controls

7.1 The current conditions are not sought to be changed except condition 1 applied in Annex 3.

- 1) The external terrace area shall be limited to a maximum of 16 (sixteen) patrons only, for the purposes of dining and drinking

8. Background Papers

8.1 Council's Statement of Licensing Policy.

8.2 Decision Notice of the Licensing Sub-Committee B, held on 8th October 2020

8.3 A copy of the current Licence

9. Appendices

9.1 None.