

SOUTHEND-ON-SEA CITY COUNCIL

Meeting of Licensing Sub-Committee B

Date: Tuesday, 29th March, 2022

Place: Committee Room 1 - Civic Suite

Present: Councillor K Mitchell (Chair)
Councillors T Cowdrey and T Harp

In Attendance: E Anakwue, T Row, A Byrne and P Richards

Start/End Time: 10.15 am - 10.50 am

853 Apologies for Absence

There were no apologies for absence.

854 Declarations of Interest

No interests were declared at the meeting.

855 Elsewhere Spaces Ltd, 1 Grove End, Rectory Grove, Leigh-on-Sea, SS9 2HB - Application for a Premises Licence

The sub-committee received a report of the Executive Director (Neighbourhoods and Environment) concerning an application by Elsewhere Spaces Ltd for the grant of a Premises Licence at Elsewhere Spaces Ltd, 1 Grove End, Rectory Grove, Leigh-on-Sea, SS9 2HB. The application sought the provisions of live & recorded music, the supply of alcohol for the consumption on & off the premises and the provision of late-night refreshment on and off the premises from Mondays to Sundays (inclusive) from 10:00hrs – 00:00hrs.

The application was presented by the Mr Peter Conisbee, the Applicants' Licensing Consultant. Ms Jane Whiting (Owner) and Mr Oliver Barnes (Designated Premises Supervisor and Manager) were also in attendance.

The sub-committee noted that no letters of objection to this application had been received from any of the Responsible Authorities, although several amendments to the licence conditions which formed part of the licence application had been agreed between the Applicant and the Licensing Authority should the application be granted. These conditions were set out in Appendix 2 to the report of the Council's Executive Director (Neighbourhoods and Environment).

Four (4) valid representations had however, been received from residents, objecting to the application. The sub-committee noted that the applicant had written to the residents to addressing their concerns. As a result, one (1) resident withdrew their representation but wished that his concerns remained on file in case there were future issues. Two (2) residents had responded stating that their representation objecting to the proposal remained. No response had, however, been received from the remaining objector to this application.

None of the objectors attended the hearing. The sub-committee was informed, however, that Mrs Heyburn had wanted to attend the meeting to present her objection, but due to the re-arrangement of her daughter's graduation, had been prevented from doing so. A representative appointed to speak on her behalf was also unable to attend the meeting. Copies of all the representations were provided and considered in full by the sub-committee.

The objections/representations essentially related to the prevention of crime and disorder, public safety and the prevention of public nuisance. In particular, the concerns related to the potential increase of noise and disturbance by loud music and patrons of the premises to residents in the residential streets behind the premises and in the vicinity later into the night, every day. Residents had experienced such disturbance from the premises under the previous licence holders and from other premises in the vicinity. The hours sought should be restricted to 22.00 hrs on weekdays and perhaps to 23.00 hrs on Thursdays to Sundays only. The need for such another premises at this location was also raised, with a suggestion that a daytime café be authorised instead.

The need for licensed premises is not a matter for the sub-committee to consider. 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 is the responsibility of the individuals themselves under the law. An individual who engages in antisocial behaviour is accountable in their own right. They are therefore not matters that the sub-committee can take into account in respect of this application.

The sub-committee listened to all the evidence and submissions and read all the documents. It had regard to the Statutory Guidance Notes and Southend-on-Sea Borough Council's Statement of Licensing Policy. It also 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 as they related to this application. Each contested application is decided on its merits.

The sub-committee noted that there had been no complaints of noise, disturbance, public nuisance or anti-social behaviour made to any of the Responsible Authorities nor the premises themselves in the past three years. No complaints had been received from the neighbours immediately adjacent to the premises. Additionally, the premises had not yet been operating under the new management.

The sub-committee heard that the premises had been in the ownership of the same family for approximately 15 years. The premises had enjoyed the benefit of a premises licence previously under the previous tenants. The owner of the premises had originally sought a transfer of the existing licence to herself to enable her to take control of the premises to open a restaurant. Due to a number of legal issues, and following the termination of the premises, the owner decided to seek a new premises licence. The purpose of the application was not to become a live music venue/disco/bar but to open a high-class restaurant with aspirations to serve Michelin quality food with music at background levels. The standing capacity at the bar was primarily for pre and post meal drinks.

The sub-committee also heard that four staff would be personal licence holders and that there was approximately 40 years of hospitality experience between them. The premises had undergone some refurbishment with the upstairs terrace now being enclosed and soundproofing had been installed. There is currently the capacity for 34 covers on the first floor and 12 covers downstairs. The alley was now regularly cleaned by the applicants. The premises would be a benefit to the area.

In response to a question regarding the application for off-sales, the Applicants' Licensing Consultant explained that this would allow a delivery service to be provided in the future. There were currently no plans to provide this service at the moment. He also clarified that there would be no sale of alcohol with the delivery service.

The sub-committee concluded that, on the basis of the evidence presented to it, the problems of noise, disturbance and anti-social behaviour could not be attributed to the premises. 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.

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 was therefore:

Resolved:-

That the application be granted subject to:

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

(ii) The additional and amended conditions drawn from the Operating Schedule, agreed with the Licensing Authority, as set out in Appendix 2 to the report of the Executive Director (Neighbourhoods and Environment), subject to the amendment of Condition 4 (as reflected in Appendix 2 of the report) to now read:

“Condition 4.

The provision of off-sales is strictly limited to customers who have been served food or drinks on the premises already, ensuring that the points within this operating schedule in relation to such is followed.”

Chair: _____