

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held in the Deben Conference Room, East Suffolk House, on **Thursday, 23 March 2023 at 10.00am**

Members of the Sub-Committee present:

Councillor John Fisher, Councillor Colin Hedgley, Councillor Mark Newton, Councillor Rachel Smith-Lyte

Officers present: Teresa Bailey (Senior Licensing Officer), Ben Bix (Democratic Services Officer), Martin Clarke (Legal Advisor), Jodie Fisher (Licensing Officer), Daniel Kinsman (Environmental Health Officer), Matt Makin (Democratic Services Officer (Regulatory)), Jemima Shaw (Trainee Solicitor)

1 Election of a Chairman

On the proposition of Councillor Fisher, seconded by Councillor Smith-Lyte it was:

RESOLVED

That Councillor Mark Newton be elected Chairman of the Licensing Sub-Committee for the meeting.

2 Apologies for Absence

There were no apologies for absence.

3 Declarations of Interest

No declarations of interest were made.

4 Declarations of Lobbying and Responses to Lobbying

No declarations of lobbying were made.

5 New Premises Licence - The Little Wine Bar, 288 High Street, Felixstowe IP11 9EB

The Committee received report **ES/1513** of the Senior Licensing Officer, which related to an application for a new premises licence at The Little Wine Bar, 288 High Street, Felixstowe. The Senior Licensing Officer introduced the report on an application for a new Premises License to permit the sale of alcohol for on and off sales. A hearing had

been required as one representation against the application had been received from a Responsible Authority, namely the Environmental Protection team at East Suffolk Council. Members noted that the applicants were not present due to work commitments and had not provided a written submission to support their application.

The Senior Licensing Officer explained that whilst the planning authority had not objected to the application when consulted, a commentary had been provided which the Senior Licensing Officer summarised. The most recent permission granted for the premises was for a change of use of the ground floor from a shop to an office and the first floor to a flat. A change of use of the ground floor office to a wine bar would be a *Sui Generis* planning matter that would require planning permission as the extant Use Class would be changed. The applicant would be advised by the planning authority that if they implemented a change of use without planning permission, they may be liable to enforcement action. However, it was noted that should the main use be a restaurant rather than a wine bar then a change of use application may not be required as the proposal would be in the same Use Class (E).

In response to a question from the Chairman, the Senior Licensing Officer confirmed that the applicant had been notified of the date of the hearing, and that in accordance with regulations a hearing could only be postponed to a different date if it was in the public interest to do so. The Legal Advisor sought assurance that the neighbouring properties had been notified. The Senior Licensing Officer confirmed that a blue public notice had been placed at or on the premises for a period of 28 days starting with the day after the application was given to the Council. A newspaper advert had also circulated in a local newspaper within 10 working days of the application being given to the Council.

There being no further questions, the Chairman invited the Environmental Health Officer representing the Council's Environmental Protection Team, to make his representation to the Sub-Committee. The Environmental Health Officer explained that the applicants had not sought to engage with the Environmental Protection Team to resolve the matters set out in the representation. It was understood that the applicants whom also operated a wine bar elsewhere on the High Street intended to create a bistro style establishment serving food and alcoholic beverages. The Environmental Health Team were concerned that a wine bar establishment in such close proximity to an existing residential dwelling would manifest a risk of unreasonable noise disturbance to the neighbouring dwelling and perhaps beyond. The front of 288 High Street was in close proximity to the front door and living room window of 290 High Street. The proposed use of the outdoor dining deck was not compatible with the residential use a few feet away, and the living room windows. On the first floor there may be a bedroom window that would also overlook the front of 288 High Street. The use of the garden room to the rear of 288 High Street could also lead to complaints of noise disturbance from neighbouring residents. The representation also referenced the challenges the applicant may face to achieve the appropriate planning consent due to the proximity of the premises to a residential dwelling, and the planning history of the premises.

The Environmental Health Team had countered the application with recommendations to the applicant that external windows and doors be kept closed, that the outside

spaces to the front and rear of the premises not be used for licensable activities and that consideration be given to a reduction in licensable hours.

The Chairman invited questions to the representative of the Responsible Authority. Councillor Smith-Lyte asked whether the Environmental Health Officer was minded to recommend that the license not be granted, or whether the license should be granted having taken account of the matters raised in the representation. The Environmental Health Officer cautioned that whilst planning matters had been identified, licensing matters were distinct and separate, and the application could only be considered in accordance with licensing policy. The Legal Advisor was cognisant that the applicant had not attended to present their case, and asked that the Environmental Health Officer specify any limitations that the Sub-Committee should consider.

The Environmental Health Officer clarified that the Sub-Committee should consider limiting the licensable activities to the inside area of the building only, that external windows and doors be kept closed to manage noise within the building and that Members should be mindful of the Sunday hours that had been applied for. The Environmental Health Officer further advised that the applicant had indicated an intention to install air conditioning, subject to any planning considerations, which would only be effective if the external windows and doors were closed.

The Chairman queried whether it was known why the immediate neighbour had not made a representation. Officers cautioned that the circumstances of the tenancy of the neighbouring property was not materially relevant, but Members could be satisfied that the necessary notices had been displayed to enable those wishing to make a representation to do so.

The Chairman invited the Senior Licensing Officer and the Environmental Health Officer to sum-up. There being no further comments from Officers, the Sub-Committee adjourned, with the Legal Advisors and the Democratic Services Officer, to make its decision.

On the return of the Sub-Committee, the Chairman read the decision notice as follows:

"Deborah McGlynn-Hale and Stuart Hale (the Applicants) have applied for a new premises license at 288 High Street, Felixstowe to permit the sale of alcohol for on and off sales from Monday to Sunday 11:00 to 23:00. The proposed opening hours are the same - Monday to Sunday 11:00 to 23:00.

The Sub-Committee heard from the Senior Licensing Officer who summarised the report, and the Environmental Health Officer making the representation from the Responsible Authority. The applicants were not present and did not provide a written statement.

The Sub-Committee has been held as one representation against the application had been received from a Responsible Authority, in this case the Environmental Protection team at East Suffolk Council. The summary grounds that a wine bar establishment in such close proximity to an existing residential dwelling would manifest a risk of unreasonable noise disturbance to the neighbouring dwelling and perhaps beyond. The front of 288 High Street is in extremely close proximity to the front door and living

room window of 290 High Street. The proposed use of the outdoor dining deck is not compatible with the residential use a few feet away, and the living room windows. On the first floor there may be a bedroom window that would also overlook the front of 288 High Street. The use of the garden room to the rear of 288 High Street could also lead to complaints of noise disturbance from neighbouring residents. The representation also references the challenges the applicant may face to achieve the appropriate planning consent due to the proximity of the premises to a residential dwelling, and the planning history of the premises.

When questioned the Environmental Health Officer confirmed that he was not objecting to the application in principle but would request conditions to ensure the licensing objectives could be satisfied.

The decision of the Sub-Committee

The Sub-Committee, having considered the application and the representation received from the Responsible Authority, have decided to grant the application, subject to the licensable hours being Monday – Saturday 11:00 to 23:00, Sunday 11:00 to 18:00; and the licensed area being reduced to the extent of the building shown in red on the plan attached to this decision notice. No licensable activity is to take place outside this area.

Reasons for decision

In arriving at this decision, the Sub-Committee has taken into consideration the representation of the Responsible Authority and the Senior Licensing Officer's report. The Sub-Committee noted that there had been no objections from members of the public and that the Responsible Authority that had objected was not opposed to a license being granted in principle but wished to have additional conditions to ensure that the licensing objectives are satisfied.

The Sub-Committee notes the statutory guidance, in particular paragraph 9.12 which makes it clear that responsible bodies are experts in their respective field and that the sub-committee should consider all relevant representations from Responsible Authorities carefully and therefore this Sub-Committee places significant weight on the representation received from Environmental Protection. The Sub-Committee has made this decision on the licensing objectives alone and planning considerations are a matter for the planning authority.

In making its decision the Sub-Committee considered the Council's own licensing guidance and statement of licensing policy, as well as the Statutory Section 182 guidance, and Human Rights Act 1998.

Anyone affected by this decision has the right to appeal to the Magistrates' Court within 21 days of receiving notice of the decision.

Date: 23 March 2023"

The Sub-Committee received report **ES/1514** of the Senior Licensing Officer, which requested the classification of a short-film titled *Immaterial Terrain* in order for it to be screened at The Stable Block, Snape Maltings from 1-23 April 2023.

The report was presented by the Senior Licensing Officer and the Sub-Committee was asked to determine the appropriate admission criteria for the films in accordance with British Board of Film Classification (BBFC) guidelines. Members confirmed that they had viewed the short-film prior to the meeting.

The Chairman invited the Sub-Committee to comment on the film. Members were satisfied that the content of the film was suitable for all viewers. Therefore, having applied the guidelines of the British Board of Film Classification, it was

RESOLVED

That the film titled *Immaterial Terrain* to be shown at The Stable Block, Snape Maltings from 1-23 April 2023 be classified as Universal, Suitable for All.

The meeting concluded at 11.25am

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Chairman