

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held via Zoom, on **Wednesday, 16 September 2020 at 10:30 am**

Members of the Sub-Committee present:

Councillor Edward Back, Councillor Jocelyn Bond, Councillor Linda Coulam, Councillor Trish Mortimer, Councillor Mark Newton

Officers present:

Teresa Bailey (Senior Licensing Officer), Chris Bing (Legal and Licensing Services Manager), Martin Clarke (Housing Projects Lawyer), Leonie Hoults (Licensing Officer), Matt Makin (Democratic Services Officer), Aayeesha Muzondo (Trainee Solicitor), Nicola Wotton (Deputy Democratic Services Manager)

Others present:

Mr B (Applicant's Solicitor), Mr P (Applicant), Ms V (supporting Applicant's Solicitor)

1 Introductions

The Deputy Democratic Services Manager opened the meeting and introduced the members of the Sub-Committee.

**2 Election of a Chairman
RESOLVED**

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

3 Apologies for Absence

There were no apologies for absence.

4 Declarations of Interest

There were no declarations of interest.

5 Declarations of Lobbying and Responses to Lobbying

There were no declarations of lobbying.

6 Application for a Variation to an existing Premises Licence: Breez, Undercliff Road, Felixstowe

The Sub-Committee received report **ES/0488** of the Cabinet Member with responsibility for Community Health. The Chairman invited the Licensing Officer to summarise the report.

An application had been made to vary the existing Premises Licence at Breez, Undercliff Road, Felixstowe, to allow for the 24-hour sale of alcohol and late-night refreshment. A hearing was required as one representation against the application had been received within the 28-day consultation period. The applicant had been provided with a copy of this representation, which was attached to the report as Appendix C for members of the Sub-Committee.

The representation had raised concerns over current issues with customers and drunken behaviour and suggested that this would increase should the variation to the Premises Licence be granted.

In making its decision, the Sub-Committee was drawn to the following

- Guidance issued under Section 182 of the Licensing Act 2003
- The Council's Statement of Licensing Policy
- Human Rights Act 1998

If the Sub-Committee had reason to depart from the above it was asked to give full reasons for doing so.

The Sub-Committee was asked to determine the application by:

- Granting the application subject to such conditions as are consistent with the operating schedule accompanying the application and any condition which must be included in the licence in accordance with the Licensing Act 2003.
- Granting the application subject to such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives (for example, by excluding a licensable activity or restricting the hours when a licensable activity can take place), and any condition which must be included in the licence in accordance with the Licensing Act 2003.
- Rejecting the application

The Chairman invited questions from the Sub-Committee to the Licensing Officer.

The Licensing Officer confirmed that no objections had been received from the responsible authorities consulted on the application. The Environmental Protection Team had received one complaint recently regarding noise at the premises.

The Licensing Officer was unaware of any other complaints from the objector and was not aware of the identity of the noise complainant. The Senior Licensing Officer noted that the noise complaint had related to the entrance door to the premises rather than customer noise; Mr B advised that this issue had been resolved by the applicant immediately.

There being no questions to the Licensing Officer from the Legal Advisor or the applicant the Chairman invited Mr B, representing the applicant, to address the Sub-Committee.

Mr B advised that the applicant, through his company, had purchased Breez three years previously and operated it as a convenience store.

Mr B explained that the applicant had applied to vary the existing Premises Licence 18 months ago and had initially looked to sell alcohol and late-night refreshment over 24 hours; following discussions the Licensing Officer from Suffolk Police it was agreed to amend the application for the sale of alcohol and late-night refreshment between 6am and 2am to review the impact of late-night sales. There having been no issues since the last variation, the applicant was now applying for a 24-hour licence.

It was noted by Mr B that the operating schedule was not proposed to be amended as it had been well detailed under the previous variation. Mr B stated that the only complaint received related to the banging of the premises entrance door, which the applicant had addressed immediately. There had been no issues with gatherings or drunken behaviour since the last variation of the Premises Licence.

Mr B referred to both paragraph 10.15 Section 182 of the Licensing Act 2003 and the Secretary of State's guidance regarding allowing licensees to match sales to their trading hours unless there was a good reason not to do so, as well as paragraph 6.4 of the Council's Statement of Licensing Policy. Mr B said that therefore the Sub-Committee needed a reason to justify any restriction.

The application was described as having been lodged and advertised as required and that of the approximately 1,000 residents in the local area only one had objected; Mr B highlighted that the objector was not in attendance at the meeting. The application had been reviewed by the relevant responsible authorities and no objections had been made, which Mr B said was a credit to the way the applicant had conducted his business.

Mr B noted that the single objection was the only reason for the hearing and considered it difficult that the objector was not present as there was no opportunity to engage with them, ask questions and test the statement made. Mr B asked that appropriate weight was attached to this representation.

Mr B queried concerns raised by the objector about sales of alcohol at 3am as the applicant was not presently licensed to sell alcohol at this time. Mr B said there was no evidence that the complainant had been disturbed by the existing Premises Licence and there had been no complaints from other residents.

The Chairman invited questions from the Sub-Committee to Mr B.

Mr B explained that the applicant had originally applied for a 24-hour variation 18 months ago but had changed this to 6am to 2am sales following consultation with Suffolk Police. Mr B said it had always been the applicant's intention to apply for a 24-hour variation having used the interim time to show that late night sales would not have a negative effect.

It was confirmed that there were private flats above the premises.

The Chairman invited all parties to sum up, beginning with the Licensing Officer.

The Licensing Officer confirmed that she had nothing further to add.

Mr B said that the applicant was aware of the responsibility of a late-night licence and the consequences of not resolving, in a prompt manner, any concerns that arise from it. Mr B said that the applicant was a responsible retailer and as there was no evidence or reason to restrict his trading, asked the Sub-Committee to grant the variation to the Premises Licence as applied for.

The Sub-Committee retired with the Legal Advisor and the Deputy Democratic Services Manager to make its decision.

On the Sub-Committee's return, the Chairman read out the following decision notice:

"Samy Limited, trading as Breez, Undercliff Road, Felixstowe has applied to vary its existing premises licence. The applicant has sought permission for the following licensable activities:

- *To increase the times for the supply of alcohol (off sales) to be 24 hours, everyday*
- *To increase the times for provision of late night refreshment everyday between 23:00hours and 05:00hours.*

This Sub-Committee meeting has been held as a representation was received from an Other Person, a local resident, against the application. No representations were received from Responsible Authorities.

In arriving at its decision, the Sub-Committee has considered the application, the oral submissions made by and on behalf of the applicant this morning and the written representation received from the Other Person. The Other Person did not attend the hearing so it was not possible for their evidence to be tested through questioning. The Sub-Committee has also considered the Licensing Act 2003 and the need to promote the 4 licensing objectives, the Secretary of State's section 182 guidance on the Licensing Act 2003 and East Suffolk Council's Statement of Licensing Policy.

The Application

The applicant seeks to vary their Premises Licence to extend the hours for sale of alcohol from the current hours of 06:00 to 02:00 to 24 hours a day.

The applicant also seeks to extend the hours for late night refreshment from 23:00 to 02:00 to 23:00 to 05:00.

The applicant's solicitor explained to the Sub-Committee that an application for a 24 hour licence was made 18 months ago. Upon checking licensing records, it was established that the application for a 24 hour licence was actually made 2.5 years ago. The applicant decided to restrict their application to 2.00am after guidance from Suffolk Constabulary. The premises has operated this late licence with only one complaint so they considered this an appropriate time to apply for a 24 hour licence. The one complaint concerned the external door banging and the applicant's

solicitor explained that this problem had been resolved immediately, by the premises licence holder. There had been no further complaints received.

The applicant's solicitor highlighted that the objector was not in attendance today so it was not possible to ask questions.

The applicant's solicitor referred the Sub-Committee to the Council's Statement of Licensing Policy, paragraph 6.4:

6.4 In the absence of any specific reasons linked to the licensing objectives, the Licensing Authority will not seek to restrict licensed retail outlets ability to sell alcohol for consumption off the premises throughout their general trading hours.

The applicant's solicitor also referred the sub-committee to the Secretary of State Section 182 guidance, paragraph 10.15:

10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

The Objection

In their written representation, the objector stated that there would be drunken and disorderly behaviour if a licence was extended and the objector, in their opinion, believes that the premises licence holder does not care about local residents. The objector said that there were already people buying alcohol at 3.00am and the objector explained that local residents have young children and would not appreciate being woken up during the night. The objector said that the premises cannot control their customers presently, so giving them a 24 hour licence would make things worse. As the objector was not present, the sub-committee was not able to ask any questions.

The Sub-Committee's decision

The Sub-Committee has decided to grant this application. The Sub-Committee feels that this is a well run convenience store and they feel confident that the applicant can be trusted to operate extended hours without compromising the licensing objectives.

The Sub-Committee notes that the premises has operated with its current licence with only one complaint, which was resolved promptly.

The Sub-Committee notes that the existing license is already subject to a number of licensing conditions to promote the licensing objectives. Therefore the Sub-Committee does not feel that it is appropriate to add any further conditions.

Any person aggrieved by the granting of this licence may, within 21 days of the date of this Notice, appeal to the Magistrates' Court. Any person can make an application to the licensing authority for a review of the premises licence if they believe the licensing objectives have been compromised by the applicant at any time.

16 September 2020"

The meeting concluded at 1:10 pm

.....
Chairman