



LICENSING SUB-COMMITTEE

Thursday 24 August 2023

APPLICATION DETAILS

Type:	Review – Premises Licence
Name of Applicant:	Mrs Sonia Jackson
Address of Applicant:	Flat 2, 95 Undercliff Road West, Felixstowe IP11 2AF
Type of applicant:	Other person
Name of Premises:	Alba Chiara
Address of premises:	91-93 Undercliff Road West, Felixstowe IP11 2AF
Description of Premises:	Restaurant

EXECUTIVE SUMMARY:

- This is an application for the review of a premises licence.
- The current premises licence holder is Sirmani Foods Ltd; the Designated Premises Supervisor is Mr Stefan Mania.
- Mrs Sonia Jackson is calling for a review of the premises licence under the licensing objective 'prevention of public nuisance'.

Is the report Open or Exempt?	Open
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Wards Affected:	Eastern Felixstowe
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Cabinet Member:	Councillor Mike Ninnmey, Cabinet Member with responsibility for Community Health
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Supporting Officer:	Teresa Bailey Licensing Officer 01394 444364 Teresa.Bailey@eastsoffolk.gov.uk
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1. EXISTING LICENCE

1.1 Sirmani Foods Ltd is the premises licence holder and Mr Stefan Mania is the Designated Premises Supervisor at Alba Chiara, 91-93 Undercliff Road West, Felixstowe. A copy of the current premises licence is attached as **Appendix A** and the plan that accompanies the premises licence is attached as **Appendix B**.

2. REASON FOR HEARING

2.1 In accordance with the Licensing Act 2003, an 'other person' has made an application for a review of the premises licence relating to Alba Chiara, Felixstowe to consider a ban on smoking on the terrace and the playing of music outdoors.

2.2 The premises licence holder and all the Responsible Authorities who are named consultees to a licensing review have been provided with a copy of the application. The application will also be made available to the Licensing Sub-Committee panel, this is attached as **Appendix C**.

2.3 Summary of grounds for review:

This review has been called under the grounds of the licensing objective of prevention of public nuisance.

The outdoor music is an annoying noise nuisance causing us disturbance, stress and affecting our well-being. At night, we are having to close our bedroom windows, which is unbearable in the hot weather, and wear ear plugs. On occasions when we've needed to get a good night's sleep due to early wake up calls or illness, we have had to sleep in our small spare room or elsewhere away from our home.

We are also suffering due to smoke, cigarette and other substances, permeating into our bedrooms, kitchen and living areas and request that the terrace is a non-smoking area.

3. POINTS FOR CONSIDERATION

3.1 The Environmental Protection Team, a Responsible Authority under the Licensing Act 2003, have not submitted a formal representation to the application. They have, however, submitted comments which the Sub-committee may consider. The comments are attached as **Appendix D**.

3.2 10 representations have been received in support of the review application. These are attached at **Appendix E**.

3.3 One representation in support of the premises has been received and this is attached at **Appendix F**.

3.4 The Premises Licence Holder, Sirmani Foods Ltd, has made written comments in response to the application for review. Mr Mania's comments are attached at **Appendix G**.

3.5 In exercising its licensing functions, the Licensing Authority has stated in its licensing policy that it will primarily focus on the direct impact of the licensable activities taking

place at the licensed premises on members of the public living, working or engaged in normal activity in the vicinity of the premises.

3.6 The attention of the Sub-Committee is drawn to the following:

- a) The Licensing Act 2003 Section 4 requires the Sub-Committee to have regard to:
 - Guidance Issued under Section 182 of the Licensing Act 2003.
 - The Council's Statement of Licensing Policy

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

- b) Human Rights Act 1998

The Human Rights Act 1998 came into force on the 2 October 2000. The Sub-Committee is urged to have careful regard of its provisions.

It is unlawful for a public authority (this expression includes local authorities) to act in a way which is incompatible with a human right.

As far as the applicant's right to a fair hearing is concerned (Article 6), the applicant has a right to be heard by the Licensing Sub-Committee. If this application is refused or granted subject to modification, the applicant has a right of appeal to the Magistrates' Court.

In assessing the impact of human rights, the Sub-Committee must seek to strike a balance between the right of the proprietors in the business to conduct it as they wish and local residents who may find its activities intrusive. In this context a business is a "possession" and the human right is expressed to be for the "peaceful enjoyment" of it. A rider to this human right empowers the Council to control the enjoyment of that business by its proprietors in the general interest. At the same time, local residents are entitled to the peaceful enjoyment of their homes.

3.7 The relevant notices about this hearing have been served on the applicant and the premises licence holder and they have until 17 August 2023 to confirm that they intend to attend (or not) as the case may be and give notice that they wish to call witnesses.

4. CONCLUSION

4.1 The Sub-Committee will be asked to determine this application by:

- **Modifying the conditions of the licence**

This could include either imposing further conditions on the licence or changing (for example, further restricting) the hours of certain licensable activities, where this is proportionate and relevant to the licensing objectives.

For this purpose, the conditions of the licence are modified if any of them are altered or omitted, or any new condition is added.
- **Excluding a licensable activity from the scope of the licence**

The sub-committee may decide that it is proportionate and relevant to the licensing objectives to remove one or more of the licensable activities.

- **Remove the Designated Premises Supervisor (DPS)**
- **Suspend the licence for a period not exceeding three months.**
- **Revoke the licence.**

4.2 If the decision reached by the Sub-Committee results in differences between the conditions attached to the licence and the planning permission currently in force for these premises, the applicant should be advised that the planning permission must be adhered to unless and until it is amended to reflect the conditions attached to the licence.

4.3 Depending on the decision of the Sub-Committee, the applicant and / or responsible authority and interested parties that have made representations have rights of appeal to the Magistrates Court.

4.4 When announcing its decision, the Sub-Committee is asked to state its reasons.

APPENDICES	
Appendix A	Current premises licence
Appendix B	Plan of premises
Appendix C	Application for review
Appendix D	Comments from Environmental Protection Team
Appendix E	Representation in support of the review (private document for the Sub-Committee only).
Appendix F	Representation in support of premises (against application) (private document for the Sub-Committee only).
Appendix G	Comments from Premises Licence Holder

BACKGROUND PAPERS	
None	