

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held in the Conference Room,
Riverside, on **Monday, 13 September 2021** at **10.00 AM**

Members of the Sub-Committee present:

Councillor Edward Back, Councillor Linda Coulam, Councillor Colin Hedgley, Councillor Keith Patience

Officers present: Martin Clarke (Acting Legal and Licensing Services Manager), Sarah Davis (Democratic Services Officer), Leonie Houlton (Licensing Officer), Nicola Wotton (Deputy Democratic Services Manager)

Others present: Mr B (the objector), Mr Taylor (Solicitor), Mr Summers (Elizabeth Holdings)

1 Election of a Chairman

On the proposition of Councillor Hedgley and seconded by Councillor Patience, it was

RESOLVED

That Councillor Back be elected as Chairman for this meeting.

2 Apologies for Absence

There were no apologies for absence.

3 Declarations of Interest

There were no declarations of interest.

4 Declarations of Lobbying and Responses to Lobbying

There were no declarations of lobbying.

5 New Premises Licence - 20 The Esplanade, Lowestoft, NR33 0QG

The Sub-Committee received report **ES/0878** of the Licensing Officer.

The Licensing Officer introduced the report. An application had been made for a new premises licence for Shish Restaurant and Meze Bar, 20 The Esplanade, Lowestoft, NR33 0QG. The application sought permission for the following licensable activities:

- * Sale of alcohol for on and off the premises
- * Late night refreshment indoors
- * Live and recorded music indoors
- * Performance of dance indoors

It was noted that during the consultation period, additional conditions were added as requested and agreed with Suffolk Constabulary, Public Health at Suffolk County Council and the Environmental Protection Team at East Suffolk Council.

There had been one representation received from another person, objecting to the application. The grounds for the representation were:

- * Concerns about the lateness of the times for licensable activities, including the sale of alcohol and music
- * The noise from the premises
- * Concerns about violence and antisocial behaviour from customers, which arose from when the premises was previously operating as a nightclub.

The Sub-Committee was asked to determine the application taking into consideration the guidance issued under Section 182 of the Licensing Act 2003, the Council's current Statement of Licensing Policy and The Human Rights Act 1998 and was asked to give full reasons for departing from these if doing so.

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

1. Granting the application subject to any mandatory conditions and to those consistent with the application;
2. Granting the application subject to the same conditions but modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives; or
3. By rejecting the application.

The Sub-Committee was asked to state its reason when announcing its decision.

The Chairman invited questions to the Licensing Officer from the Sub-Committee. There being no questions, the Chairman invited questions to the Licensing Officer from the Applicant.

Mr Taylor, Solicitor for Elizabeth Holdings, sought confirmation from the Licensing Officer that an application to re-licence the premises had only been necessary due to an administrative oversight, whereby the licence renewal had not been paid. Should the licence renewal have been paid, then the licence would not have lapsed and a Licensing Sub-Committee meeting would not have been necessary. The Licensing Officer provided clarification that the previous licence holder had not paid the annual fee that was due however, when chasing the annual fee, it was then discovered that the licence holder, which was a company, had been dissolved. It was noted that if a company was dissolved, the premises licence automatically lapsed unless an interim authority notice or a transfer application is received within 28 days of when the company dissolves. As this did not happen, as the company had already been dissolved

for some time, the licence lapsed and therefore, a new application was required. This meant that even if the annual fee had been paid, the licence would have still lapsed, as the company had been dissolved. The Licensing Officer confirmed that it was correct that if the company had not been dissolved and the licence would not have lapsed, then Elizabeth Holdings could have simply applied to transfer the licence to them and therefore, there would have been no new application and so no hearing would have been required, as they would have been able to operate under the old licence.

The Legal Advisor reported that the Police and Environmental Protection had considered the proposed conditions and did not have any additional concerns and it was noted that they were not present at the meeting.

There being no further questions of the Licensing Officer, the Chairman invited the Applicant to present his case.

Mr Taylor reported that Elizabeth Holdings were the freehold owner of the premises and they owned over 50 properties across East Anglia. Elizabeth Holdings leased the premises to individuals to run and they were paid rent for the use of the premises. He reported that the previous tenants had gone bust and their company was dissolved, which led to the lapse of the licence. The licence had not been revoked, it had lapsed due to an administrative error.

Mr Taylor stated that the conditions had been updated and agreed and overall, the newly agreed conditions were more restrictive than those that Shish used to operate under. This should therefore provide additional reassurance to the Objector. The plan was for there to be a pub on the ground floor with a restaurant upstairs and no objections had been received from the Police or Environmental Protection.

Mr Taylor acknowledged the Objectors' concerns however, the proposed conditions would ensure there was no live music, there would be limitations regarding the volume of music and improved sound proofing would reduce any noise disturbance. Mr Taylor stated that he had tried to reassure the Objector, however he had not been willing to withdraw his objection.

The Chairman then invited questions for Mr Taylor.

Councillor Hedgley stated that he was aware of Elizabeth Holdings' extensive property portfolio and he acknowledged that the premises had a bad reputation in the past. He was pleased with the proposed conditions, however he did have some concerns about the patio area outside. Mr Taylor confirmed that the patio area could not be used after 11pm each night, in accordance with the conditions.

Councillor Hedgley queried whether Elizabeth Holdings would have a management team or a tenant to run the premises. Mr Taylor confirmed that it would be tenanted and the tenant would have to run the business in accordance with the licence and obey the conditions. The licence for the premises would be transferred over to the Designated Premises Supervisor (DPS) and Elizabeth Holdings would work to ensure that only a suitable tenant was allowed to run the premises. Mr Summers, from Elizabeth Holdings, provided reassurance as he stated that he would take personal responsibility for interviewing prospective tenants and he would ensure that they were

suitable and capable of running the premises and were also aware of the importance of the licensing conditions. Mr Taylor confirmed that the licensing conditions were there to protect others and Elizabeth Holdings did not wish to have a repeat of any previous problems.

Councillor Back stated it was very important that there were ways to reduce noise when customers were leaving the premises at night and to stop them congregating outside. Mr Taylor reported that this would be the responsibility of the DPS and Door Supervisors. The tenant would need to make sure that there were a number of management procedures in place to ensure that the premises was run smoothly. Unfortunately, once the customers had left the premises, it would be the customers' personal responsibility for their behaviour.

The Chairman invited the Licensing Officer to ask questions and it was confirmed that she did not have any at this time.

The Chairman then invited the Objector to ask questions of the Applicant.

Mr B, Objector, queried whether there was a business plan for the premises, as they would require some works undertaken to bring them back up to standard. He commented that previous tenants had conditions in place however in the past the premises had encouraged young people to drink more alcohol and there had been issues with anti social behaviour, with glasses being thrown over the dividing wall. The Legal Advisor confirmed that Mr B was only able to ask questions at this point in the meeting, he would be able to explain his position in due course.

Mr B queried the amount of sound proofing currently in place and the costs of improving it? He commented that although the premises was currently empty, if the phone rang in the office it could be clearly heard in his premises. Mr B reiterated his concerns about glasses being thrown close to the premises. Mr Taylor confirmed that Elizabeth Holdings would not install soundproofing, that was for the tenant to do, in order that music could be played in the premises. The conditions were very clear, the premises could not cause any disturbance after 11pm, therefore the tenant would need to mitigate any noise by installing noise limiters, sound proofing or wall coverings. In respect of glasses being thrown, Mr Taylor confirmed that this would be down to the tenant and their management to address, via their behaviour management strategy. Mr Taylor provided reassurance that Elizabeth Holdings would ensure that good tenants would take over the premises and that they would have the necessary skills and experience to deal with these kinds of issues.

The Legal Advisor asked how a tenant would be chosen and also how Elizabeth Holdings would manage the situation if there were problems or complaints received about a premises? Mr Summers reported that Elizabeth Holdings had focussed upon its pub estate in recent times and that he would work closely with all tenants and develop a strong relationship with them to ensure that all problems were sorted very quickly. It was not in the interests of Elizabeth Holdings to have a problem premises, Mr Summers would be involved with the new tenants from the start and would deal with problems robustly.

There being no further questions, the Chairman invited the Objector, Mr B, to state his

case.

Mr B reported that, due to his past experience of the premises, he was very concerned about length of time for alcohol consumption on the premises, which led to considerable anti social behaviour in the past. Examples of such behaviour included noise, bottles and glasses being thrown, people urinating in his garden and he had had to call the Police on many occasions. Mr B queried why the licence would allow the sale of alcohol so late? He felt that the premises would be more successful as a restaurant, rather than as a nightclub, and there were already 2 other nightclubs in the area. Those nightclubs were in an appropriate place, as they were not next to residential properties, unlike these premises.

Mr B also commented that there were considerable sound proofing issues in the property, as a ringing phone was very loud and could be heard clearly in his property. If music were played in the premises it would be louder than a phone, therefore he envisaged that he would be extremely inconvenienced by the licensable activities within those premises, should the licence be granted.

The Chairman invited questions from Members of the Sub-Committee.

Councillor Hedgley commented that he had sympathy with Mr B, however most nightclubs would stay open until 2am and the conditions were robust and would ensure that, if there were problems, the Police and Environmental Protection would work with the premises management to address the issues. The matter could also be brought back before the Licensing Sub-Committee for further consideration, if there were complaints.

Mr B stated that his past experience of the premises was based upon near-identical licensable conditions and there had still been problems. He was mostly objecting to the time periods involved, he reiterated that young people would be drinking for lengthy periods, which would inevitably cause problems.

Councillor Patience queried what would happen if there were problems with dispersing crowds at closing time and who would deal with glasses being thrown? Mr Taylor reported that these issues would be for the management to deal with. They would be expected, as part of the tenancy agreement, to have robust processes and procedures in place. However, the day to day running of the premises would be the responsibility of the tenant.

The Chairman invited questions from the Licensing Officer, the Applicant and the Legal Advisor. As there were no further questions, the Chairman invited each person to sum up.

The Licensing Officer confirmed that she had nothing to add.

Mr Taylor summarised that the Licensing Sub-Committee meeting would be required, if there had not been an administrative error, which had caused the licence for the premises to lapse. No concerns had been raised by the Police or Environmental Protection, the conditions for the premises were robust and would provide protection for the objector. There was no evidence to suggest that there would be future

problems at the premises, however if there were concerns, then they could be addressed by the Licensing Sub-Committee. He requested that the licence be granted.

Councillor Hedgley then queried whether CCTV would be installed, which would record all people entering and leaving the premises? Mr Taylor confirmed that there would be and the recordings would be kept for 28 days, in accordance with the conditions.

Mr B commented that there had been many issues and anti social behaviour at the premises in the past and he was concerned that the problems would be repeated. Mr Taylor commented that the conditions such as door supervisors and CCTC would provide added reassurance. Also, Mr Summers would be careful in choosing future tenants and would ensure that they were suitably knowledgeable and experienced to take on the premises.

Councillor Hedgley queried whether additional conditions could be added in the future. It was confirmed that there were some problems in the past, however if there were issues in the future, then the matter would be referred back to the Licensing Sub-Committee and the responsible authorities would be consulted and the conditions could be altered, if required.

The meeting was adjourned from 10.53am to 12.00 noon to enable the Sub-Committee to make its decision.

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

Elizabeth Holdings has applied for a new premises licence at Shish, 20 The Esplanade, Lowestoft, NR33 0QG which would allow the sale of alcohol for consumption on and off the premises, late night refreshment indoors, live and recorded music indoors and performance of dance indoors.

This application was required as the previous licence had lapsed due to the previous operator, who was a tenant of the applicant, dissolving, therefore requiring a fresh licencing application. Due to an administrative oversight by the applicant, the licence could not be transferred and a fresh application was required.

This Sub-Committee has been held as one representation was received against the application.

The Sub-Committee heard from the Licensing Officer, 2 representatives from the applicant and the objector. The responsible authorities, namely the Police, Public Health and Environmental Protection, did not attend, as they had agreed conditions with the applicant in advance and they do not object to the licence being approved subject to the agreed conditions being imposed in full.

The applicant reiterated that had they completed the renewal form in time, the licence would have been transferred automatically and this hearing would not have been necessary. The applicant also indicated that they were not going to operate the premises themselves and they would select a tenant carefully, once the licence had been granted the property would be run as part of the licensed premises estate, under

the appropriate supervision. The applicant indicated that they had liaised with the responsible authorities and had agreed 18 conditions, as referred to in the report of the Licensing Officer. They had also liaised with the objector, with a view to resolving the objection but they were unable to resolve the objection.

The Sub-Committee also heard from the Objector, who lives nearby and was concerned regarding noise nuisance and also public nuisance when the premises closes at the end of the night, having experienced public nuisance when the premises was previously operating. He is concerned that this may happen again.

The Decision of the Licensing Sub-Committee

In arriving at this decision, the Sub-Committee has taken into consideration the representations from the applicant, objector and the Licensing Officer's report, which drew the Sub-Committee's attention to its obligations under the Human Rights Act 1998.

The Sub-Committee also considered the licensing objectives and the council's own guidance and statement of licensing policy as well as the Statutory Section 182 guidance.

The Sub-Committee's decision is to grant the licence, subject to the 18 conditions agreed by the responsible bodies:

- 1. The Licence holder shall install Video/CCTV equipment inside/outside the premises and ensure that it is maintained in working order.*
- 2. The Licence holder shall set Video/CCTV equipment to record from the time that the premises open to the public until the premises close and all members of the public have left.*
- 3. The Licence holder shall ensure that monitoring tapes are retained for at least twenty eight days and are produced to an authorised officer on demand.*
- 4. The Licence holder shall put up notices advising that CCTV has been installed on the premises so that they are clearly visible to the public within the licensed premises.*
- 5. The Licence holder shall ensure that the consumption of alcohol is restricted to the areas identified on the plan attached to the operating schedule.*
- 6. The Licence holder/DPS shall implement an ejection policy ensuring all instances of drunkenness, disorder, drug use or violence are challenged, resulting in the ejection or retention of the individual(s) and under serious circumstances, consideration shall be given to their permanent exclusion from the premises in the future. All such instances must be notified to the Police at the time of happening or as soon as possible thereafter using the appropriate method, emergency or non-emergency contact dependant on the circumstances. Where an offence of violence has been committed the premises management will take all reasonable steps to identify the offender and pass the identity to the Police as soon as is reasonably practicable. An incident book entry will be made on all occasions; timed, dated and signed by a member of the security team and then countersigned and acknowledged by the Duty Manager.*
- 7. The Licence holder/DPS shall ensure that all bar staff engaged in the sale of alcohol to be trained in responsible alcohol retailing to the minimum standard of BIIAB level 1 or equivalent, within three months of commencing employment at the premises. Training records shall be kept on the premises and produced to the Police and*

authorised Local Authority Licensing Officers on demand. For the avoidance of doubt this training can be administered in-house in accordance with the relevant criteria. Training will be reviewed every 6 months to ensure staff are up to date with the latest legislation.

8. The Licence holder/DPS shall implement the "Challenge 25" scheme, ensuring prominent signage is displayed throughout the premises and all staff are trained in its operation. This means that any person who appears under 25 years of age shall be required to provide proof of age using an acceptable form of photo ID. The only forms of ID which may be accepted are, a) proof of age card bearing the PASS hologram logo, b) passport, c) UK photo driving licence or Military ID card. Notices advertising that the premises operates a 'Challenge 25' scheme shall be displayed in a clear and prominent position in the premises.

9. The Licence holder/DPS shall ensure that an incident book(s) / refusals register shall be kept and maintained on the premises at all times. The book(s) shall detail all incidents of injury/ejection/refusals/drug misuse/seizure/age challenge. Such matters shall be timed, dated and signed by the author and produced to Police/Authorised Licensing Officers on demand. In the case of the refusals register, there shall be one at each bar area, or any other area utilised for the supply of alcohol.

10. The Licence holder/DPS shall ensure that empty drinking vessels shall be regularly collected as to ensure no accumulation in areas where the public have access

11. The Licence holder shall ensure there are a minimum of two SIA registered door staff employed on Fridays and Saturdays between 22.00 and 02.00

12. The Licence holder shall ensure all door supervisors on commencing duty will sign an attendance book with their full name, SIA number, and record the time/date and shift hours.

13. The Licence holder shall ensure that the supply of alcohol in the first floor restaurant will only be by way of table waiter/waitress service.

14. Live Music be permitted (indoors) Monday – Saturday 11.00 hrs to 00.00 hrs with Sundays 12.00 hrs to 00.00 hrs

15. Performances of Dance be permitted (indoors) Monday – Saturday 11.00 hrs to 00.00 hrs with Sundays 12.00 hrs to 00.00 hrs

16. The licence holder shall make sure that doors and windows are kept closed whenever regulated entertainment is operated (except for ingress and egress) to reduce noise from the premises

17. The Licence holder shall nominate a person to be responsible for monitoring noise levels and instruct that person to implement changes in noise levels in accordance with any request by an authorised officer of the Council immediately and ensure that volume is maintained at the reduced level.

18. Noise from the premises must not be audible (noise will be considered to be inaudible or not audible if it cannot be heard or is imperceptible to the human ear) at the façade of any noise sensitive premises in the vicinity. (Noise sensitive premises are residential properties and hospitals, libraries, places of worship, hotels, schools and other similar premises when these are in use) between the hours of 23.00 hrs – 07.00 hrs.

The Sub-Committee has come to this decision, after considering representations made by the applicant and the objector and after considering the 4 licensing objectives. Whilst the Sub-Committee has sympathy with the objector, the Sub-Committee notes paragraph 9.12 of the statutory guidance, that each responsible authority is an expert in their relevant field and licensing authorities must therefore

consider all relevant representations carefully. The Licensing Sub-Committee notes the relevant responsible authorities have given this matter considerable thought and have proposed specific tailored and targeted conditions to promote the 4 licensing objectives and the Licensing Sub-Committee is therefore of the view that granting a licence subject to these conditions will promote the licensing objectives.

The Sub-Committee has full confidence that the responsible authorities will monitor compliance with the licensing conditions and if necessary will bring the matter back for review. The Sub-Committee also hopes and expects that the applicant and any subsequent license holder will endeavour to maintain good relations with any neighbouring residents and businesses.

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

Date: 13 September 2021

The meeting concluded at 12.04 PM

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Chairman