

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub Committee **Date:** 2 November 2021

Place: Council Chamber - Civic Offices **Time:** 10.05 am - 1.45 pm

Members Present: J Jennings (Chairman), A Lion, R Morgan and B Rolfe

Other Councillors: None

Apologies: None

Officers Present: R Ferreira (Assistant Solicitor), J Leither (Democratic Services Officer), D Houghton (Licensing Compliance Officer), P Jones (Licensing Compliance Officer) and N Cole (Corporate Communications Officer)

29. WEBCASTING INTRODUCTION

The Chairman made a short address to remind everyone present that the meeting would be broadcast to the internet and would be capable of repeated viewing, which could infringe their human and data protection rights.

30. DECLARATIONS OF INTEREST

Councillor A Lion declared a non-pecuniary interest in item 6 of the agenda, application for a premises licence at 117 High Road, Chigwell IG7 6QQ by virtue of being a Chigwell Parish Councillor and advised that he was only there as an observer.

31. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Sub-Committee noted and agreed the procedure for the conduct of business.

32. APPLICATION FOR A PREMISES LICENCE FOR SAPORE RUSTICO, 150 LOUGHTON WAY, BUCKHURST HILL, ESSEX IG6 6AR

The three councillors that presided over this application were Councillors J Jennings (Chairman), R Morgan and B Rolfe.

The Chairman welcomed Mr G Tipu, the applicant's representative. There were no objectors present. The Chairman introduced the members and officers present and outlined the procedure that would be followed for the determination of the application.

(a) Application before the Sub-Committee

The Licensing Compliance Officer, P Jones introduced the application for a new premises licence at Sapore Rustico, 150 Loughton Way, Buckhurst Hill, Essex IG9 6AR.

The application was for the following licensing activities:

The Sale by Retail of Alcohol (for consumption on and off the premises)

Monday to Sunday 11:00 – 22:00

Opening Hours of the Premises:

Monday to Sunday 09:00 – 22:30

The application had been received on the 20 September 2021 and the Operating Schedule set out the conditions that would be attached to the licence, if the application was granted.

The responsible authorities had received a copy of the application. It had been advertised at the premises, in a local newspaper and all residences and businesses within 150 meters radius of the premises had been individually consulted.

The authority had received three representations, one from Buckhurst Hill Parish Council and two from members of the public. The objections related to the prevention of crime and disorder, prevention of public safety, prevention of public nuisance and the protection of children from harm. Responses had also been received from the Essex Police and the Epping Forest District Council Resilience Team, where additional measures had been agreed with the applicant. There had been no objections from Essex County Fire and Rescue Service and Environmental Health.

(b) Presentation of the Applicant's Case

The Applicant's representative, Mr G Tipu advised that the premises was an Italian restaurant and part of the Italian cuisine was wine and prosecco so the licence was needed to successfully run the business.

Mr Tipu stated that a letter had been sent to the Licensing Sub-Committee from the applicant Mr S Tipu advising that alcohol would only be sold with food and not separately and that the premises operated CCTV. He also advised that they would be willing to reduce the hours of providing alcohol from 9am-11pm to 11am-10pm.

(c) Questions for the Applicant from the Sub-Committee

Councillor J Jennings asked if there were any provisions for smoking and people congregating outside.

The applicant advised that as a leaseholder there was no ownership outside of the premises but a cigarette stand could be placed outside for customers use.

The Solicitor for the Council R Ferreira asked the applicant to confirm the times of the sale of alcohol.

The applicant advised that the sale of alcohol would be from Monday to Sunday from 11am to 10pm and the opening times of the premises would be from 9am to 10pm.

(d) Closing Statement from the Applicant

The applicant thanked the Sub-Committee and all the residents in the surrounding area of where the premises was situated, who did not make any objections and for the opportunity to present the application to the Sub-Committee.

(e) Consideration of the Application by the Sub-Committee

The Chairman advised that the Sub-Committee would go into private session to consider the application.

During their deliberations the Sub-Committee received no further advice from Officer's present. The Sub-Committee noted all of the submissions and representations that had been made in relation to the application and had considered what was appropriate to promote the four licensing objectives and the relevant parts of the Council's Licensing Policy and the Home Office's guidance.

RESOLVED:

That the application for a premises licence in respect of **Sapore Rustico, 150 Loughton Way, Buckhurst Hill, Essex IG9 6AR** be granted subject to the following conditions which in the opinion of the Licensing Sub-Committee were reasonable, proportionate and in the public interest for the promotion of the licensing objectives:

(1) The conditions which were consistent with the Operating Schedule as varied by the conditions agreed with Essex Police on Page 37 of the Agenda and with Community Resilience on page 38 of the Agenda save that the conditions to the sale of alcohol and the opening times of the premises are to be amended to read as follows:

Sale of Alcohol:	Monday to Sunday 11:00 to 22:00.
Opening Times of the Premises:	Monday to Sunday 09:00 to 22:30.

which were considered to be reasonable and proportionate and would not undermine the licensing objectives.

The applicants were reminded of their right of appeal to the Magistrates Court within 21 days of date of the written notification of this decision. Please also be reminded that licences in general could be reviewed.

33. APPLICATION FOR A PREMISES LICENCE AT 117 HIGH ROAD, CHIGWELL, ESSEX IG7 6QQ

The three councillors that presided over this application were Councillors J Jennings (Chairman), R Morgan and B Rolfe.

The Chairman welcomed Mr Ali Naqvi of Foskett Marr Gadsby and Head Solicitors, Mr Ryan Dowding, Barrister, Mr Vikram Singh, DPS and Ms Holly Ward, Personal Licence holder on behalf of the application. Anthony Belgrave, Chigwell Parish Council, Mr R Sturgeon, Mrs B Walters, Mrs E Gandz, Mr N Falatoori, Mr N Palfreman and Ms Dori Usef were present objecting to the application. The Chairman introduced the members and officers present and outlined the procedure that would be followed for the determination of the application.

(a) Application before the Sub-Committee

The Licensing Compliance Officer, P Jones introduced the application for a new premises licence made by Mr Ali Naqvi of Foskett Marr Gadsby and Head Solicitors on behalf of 117 Trading Limited for the premises at 117 High Road, Chigwell, Essex IG7 6QQ.

The application was for the following licensing activities:

**The Provision of Recorded Music (Indoors); and
The Sale by Retail of Alcohol (for consumption on the premises)**

Monday to Sunday 12:00 – 00:00

Late Night Refreshment (Indoors)

Monday to Sunday 23:00 – 00:00

Opening Times of the premises

Monday to Sunday 12:00 – 00:00

The application had been received on the 20 September 2021 and the Operating Schedule set out the conditions that would be attached to the licence, if the application was granted.

The responsible authorities had received a copy of the application. It had been advertised at the premises, in a local newspaper and all residences and businesses within 150 meters radius of the premises had been individually consulted.

The authority had received fifteen representations, one from Chigwell Parish Council and fourteen from members of the public, all of which were attached to the agenda. The objections related to the prevention of crime and disorder, prevention of public safety, prevention of public nuisance and the protection of children from harm. Responses had also been received from the Essex Police and the Epping Forest District Council Resilience Team, where additional measures had been agreed with the applicant, along with a reduction in the licensable and opening hours. There had been no objections from Essex County Fire and Rescue Service and Environmental Health.

(b) Presentation of the Applicant's Case

Mr Ryan Dowding, Barrister for the application advised that any new proposal was likely to be met with trepidation by residents living in the area, particularly where it was a village setting, such as Chigwell. He advised that he was there today to set out the proposal before addressing the representations.

He stated emphatically that the proposed business was definitely not going to be a nightclub it would be a bar/restaurant which would not be designed to attract anti-social behaviour, it would be designed as a high class restaurant and cocktail bar playing low background music, an asset to the local area rather than a detriment or a nuisance. There would also be a private function room at the venue which again would be designed to constitute an asset to the local community. It would be a venue where people could arrange and book events, but again, within the strict parameters of the conditions that have been agreed with the responsible authorities in the local area. It was important to note that this was not an application for a licensed premises to be inserted into what was previously a residential premises, as you will be aware, the building that was proposed to be used for this licensed premises had, for the last 25 years up until 2018, been a licensed premises and the only reason an application wasn't made to extend the licence was because the time had lapsed and therefore a new application had to be made for a new license. There was no intention to dramatically change the purpose for which the building would be used from the purpose for which it was previously used.

He advised that to ensure that the highest possible standards were maintained and to ensure that those purposes were met it would be run by highly qualified individuals experienced in managing licensed premises. All staff employed would receive

training from the Aqua Group of Companies who provide training to licence holders and restaurants.

It was hoped that this premises would become, as the previous restaurant before it, part of the fabric of the local community and that it would work for and not against the people of Chigwell.

Mr Dowding went on to address the representations that had been received and advised that representations must be evidenced based and are shown to prove effectively that a particular venue will not meet the licensing objectives if it was granted a licence, representations cannot be based simply on a hunch or a suspicion that a risk may arise in the future. There was always an opportunity for a Sub-Committee at a later stage to vary or revoke a licence if any of the four licensing objectives were broken.

He stated that although there had been fifteen representation some of those were identical and he would address the main concerns which were alcohol consumption, late night refreshments, potential noise nuisance, concerns about nearby schools and parking and these would seem to be the prevailing themes arising from the various representations. It was important to note and the outset that there were not any evidence based concerns about this particular premises and specifically the management of it. The management were experienced individuals of good character and would do anything they could to uphold the licensing objectives.

Parking

The concerns regarding parking, which was supplemented by the Parish Council's additional concerns about whether the venue fits with the locale. Parking was not a licensing objective this would come under planning issue which there was a separate Sub-Committee to deal with which has experience of dealing with parking matters.

Late night refreshments and music

There seemed to be some misunderstanding within the representations as to exactly what late night refreshments was. Late night refreshments means that any hot food cannot be sold after 23:00 unless there was a licence in place. This was a restaurant that would be working up until 23:00 which they could do without a licence. The extra hour was sought to be required only for Fridays and Saturdays and therefore Sunday to Thursday food would be served until 23:00. Recorded music was another area where there seemed to be some misunderstanding, where music was incidental music there was no need for a licence, this had been added as a precaution to advise the Sub-Committee that they were seeking to play background music and fell into the definition of incidental music and would not be a predominant activity taking place. Technically no licence was required to play background music. The Environmental Enforcement Officer of the District Council had now withdrawn their representation to which they originally had concerns but 9 conditions were agreed to be added to address any possible concerns arising out of noise pollution.

Crime and Public Safety

With the greatest of respect to all of the residents that have put in representations regarding Crime and Public Safety, these were not evidence based objections, they were effectively general concerns about the fact that alcohol may lead to anti-social behaviour, may lead to violence against individuals. This has not been proven as the new premises was not open and therefore these representations cannot be taken into account. The Police who were the responsible authority have withdrawn their representations regarding Crime and Public Safety after a further 12 conditions were agreed between the Police and the proposed licensee, along with a reduction in the opening hours Sunday to Thursday.

Therefore as the Police have no concerns this should be additional comfort both to residents and the Sub-Committee and should be noted that this licence should be granted and it will be a safe venue going forward if it was granted.

In conclusion the proposed licensee has made every possible effort to engage with the Police and other responsible authorities all of whom have withdrawn their representations.

(c) Questions for the Applicant from the Sub-Committee

Councillor R Morgan stated that the opening hours and the sale of alcohol hours finished at the same time which was 12 midnight, normally the opening hours would finish later than the sale of alcohol therefore could you please advise exactly what the hours of opening and the hours of the sale of alcohol would be.

Mr R Dowding advised that the sale of alcohol times had been changed as agreed with the Police and were now 12:00hrs to 23:00hrs Sunday to Thursday and 12:00hrs to 00:00hrs Friday and Saturday and the opening hours of the premises would be exactly the same.

Councillor J Jennings asked if that would allow the premises enough time to serve alcohol and close and clear the premises.

Mr Dowding replied that in reality where a premises was to close they would do a final call before the end of the evening for last drinks therefore ensuring that the premises was closed at 00:00hrs.

Councillor R Morgan asked how many tables and customers were likely to be in the restaurant at the same time.

Mr Dowding advised that it was on page 84/85 of the agenda and there was capacity for approximately 80 people seated in the restaurant.

Councillor Morgan stated that it was difficult to see on the plan exactly where 80 people would sit so could Mr Dowding please advise.

Mr Dowding advised that the ground floor would be the restaurant and the first floor was the private function room, the second floor was a flat and was not on the application to be licensed.

(d) Questions for the Applicant from the Objectors

One of the objectors asked if there were 80 seated in the restaurant how many people will be in the private function room and how many people will be in the bar area.

Mr Dowding replied that the total capacity of the licensed premises over both floors was 80 people.

One of the objectors asked why this new premises was explained to be the same as the previous restaurant when that was only licensed on the ground floor yet this new restaurant will be over two floors.

Mr Dowding stated that his representation may have been misheard as he wasn't saying that the premises were to be exactly the same as the previous restaurant he

was saying that it wasn't a dramatic shift from the previous restaurant as that had been licensed for 25 years and this premises was intended to also be a restaurant with a function room on a different floor.

The Chigwell Parish Council representative, Mr A Belgrave asked how many people would be employed at the premises.

Mr Dowding replied that there would be in total 10 members of staff plus the two license holders who would be managing and monitoring compliance with the licensing objectives. It should be noted that this was estimated at they were still at the planning stages, but that would be the maximum members of staff.

Mr Belgrave asked in view of there being 10 staff members what would be the facilities in terms of parking for these employees.

The Council's legal representative R Ferreira advised that parking was not part of the licensable activities and could not be dealt with at this Sub-Committee, it was a matter for planning or the Highways Authority.

Mr Belgrave stated that he disagreed with that as one of the licensing objectives were Public Safety and the Prevention of Harm to Children and he believed in view of the parking facilities that exist at the moment it was relevant to the Sub-Committee.

The Council's legal representative R Ferreira stated that if it was Public Safety that it had to link directly from the premises itself and parking isn't part of this jurisdiction to be dealt with at this Sub-Committee.

Mr Belgrave asked if he could rephrase his question and stated in view of the licencing objectives what safety procedures will be put in place for staff in terms of how they arrive and leave the premises.

Mr Dowding replied that it would be the same as in any other premises, members of staff would be entitled to arrive and leave at the start and the end times of their shifts, there will be space for them to leave their bags and coast within the premises and there were designated areas where they would be working throughout the duration and as you can see from the supplementary bundle training would be provided on various matters by an experienced provider of such training.

One of the objectors asked what was the intentional use of the function room.

Mr Dowding replied that the function was intended for the person seeing a function to decide so it could be used for a small private gathering but it will effectively be for the person booking the function room to determine that use so long as it was within the parameters of the licensing conditions which would apply throughout the premises.

One of the objectors asked if it could be used as a disco or a party with loud music.

Mr Dowding advised that it could not as that was not on the licensing conditions.

One of the objectors stated that by licensing the premises it was portrayed as being of benefit to the residents and asked how many residents have said thank you and were there to applaud you.

Mr Dowding stated that they were not looking for applause, the reality was that over time it will become a part of the furniture of the local area and people will come to enjoy it for what it was which will be a restaurant.

One of the objectors stated that it was mentioned that local residents have trepidation but that it was not evidenced based data. She stated that she lived near to another licensed establishment whose licensing hours were extended at a time when residents were not informed about it and it had been a catalogue of noise, anti-social behaviour, litter and was a very distressing experience which were ongoing therefore how can you say that there was no evidence that this may cause distress to neighbours since you've had a police agreement with cameras and restrictions put in place. Therefore, how can you guarantee that this will not happen at this premises and also say that there was no evidence when quite clearly there was in the area.

Mr Dowding advised that it was not about there being evidence relating to other premises in the area, for a licence to be refused, ordinarily evidence would be required to be put before a Sub-Committee in relation to a particular premises or the licensee in question and as the premises has not yet been opened there was no history of any issues to do with this premises license or the licensee.

One of the objectors asked how it was known that there was no evidence of any anti-social behaviour.

Mr Dowding stated that he objected to the nature of the question because it was not for his client to demonstrate that there was no anti-social behaviour and that they could not be asked to prove a negative, it was for those objecting to the licence to provide that evidence and no such evidence had been provided and the Police have now signed off on the premises.

One of the Objectors stated that there was evidence as she had been threatened and verbally abused by the Bluebell restaurant many times. She stated that she did not report it to the Police because she had a seriously ill husband and she was threatened that if she contacted the Police her house would be done over. Therefore what are you going to do about people coming out of the premises drunk and threatening residents.

Mr Dowding replied that there were two separate aspects to her statement, firstly there are the conditions that have been imposed to prevent that from happening but there was no way that you could 100% guarantee that nothing will ever happen but that was not what the licensing regime was designed to do, otherwise there would not be any licensed premises anywhere. If anything of this nature were to happen you have the right to report it to the Police and the Local Authority where the licence would come back to a sub-committee to either vary or revoke the licence should the licensee be found to have been guilty of any misconduct.

One of the objectors asked how was the issue of smoking proposed to be dealt with and people using their phones are there any areas set up for that and what controls have been put in place so they cannot walk around the street.

Mr Dowding replied that this was a premises on-licence and not an off-licence and therefore people would not be allowed to take their drinks outside and walk around whilst getting drunk on the street, it was not within the terms of the licence and if it did happen it could be reported. There were still issues to resolve but there would be a smoking area at the back of the premises so that people aren't walking around in the street.

Mr Belgrave referred to the licensing hours and that it had been established that whilst the premises was open alcohol would be served and he referred to the CV of one of the licence holders, which clearly stated, that she had experience in opening

and closing of premises, therefore if the establishment was at full capacity, in her experience, how long would it take to clear the premises in a safe and quiet matter and would that exceed the licensing hours.

Mr Dowding advised that the licence holder Mr Belgrave was referring to was not present at the meeting and referred to her CV which stated that she had worked for a number of companies and entities which had very high capacities and licensable activities in their remit. In terms of the general dispersal where closing hours and licensable activities end at a particular time that would be the time that the premises would have to close.

(e) Closing Statement from the Objectors

Mr N Falatoori advised that the main concerns centred around the prevention of public nuisance because a lot of the residents surrounded the premises at 117 High Road, Chigwell. He advised that his garden was adjacent to the function room and other residents overlooked the premises. The Bluebell had a much smaller footprint this new business this was obviously much larger and would impact more on the neighbours.

If you were to summarise everyone's concerns, the boundary wall of his garden at the back was also the boundary wall of 117 which would be the bar room which was where the bedroom of his young daughter was (see agenda page 123). 117 was a grade II listed building and therefore there was no soundproofing that would prevent any noise travelling from one premises to another. An information sheet from Great Ormond Street Children's Hospital (page 133 of the agenda) states that a child between the ages of 6 and 12 needed 12 hours sleep a night and with 117 being open until midnight seven days a week this would severely affect his daughters sleep and in turn her attention for school work and her general well-being. This would also affect the other residents which are in close proximity to 117.

Ms D Usef advised that she had lived in Chigwell Village since 1995 and it was a relatively quiet place to live until the local pub had turned into a restaurant/bar/nightclub with all the accompanying noise, litter, anti-social behaviour and stress and this application seemed to be along the same lines of yet another noisy, litter possible venue and you ate talking about licensing hours and opening hours being the same, so if 80 patrons wanted another drink at 11.55pm and then suddenly have to leave and midnight, it seems incomprehensible and open to consequences.

Mr A Belgrave, representing Chigwell Parish Council, who strongly object to this application, because if approved it would adversely affect the amenity of the neighbouring residents and cause a public nuisance in a quiet residential village which was within an area of special conservation.

(f) Closing Statement from the Applicant

Mr Dowding advised that he would like to address the objectors who had concerns because his garden backed onto the premises that was to be licensed and whereby it was stated that the noise level could not be effectively mitigated on the basis that the premises was a grade II listed building.

He stated that if the sound could not be mitigated effectively then the license could be revoked for that reason. Conditions had been agreed with the Environment Officer as below:

- The premises shall be adequately insulated or the sound level adjusted, to ensure that noise from music or amplified sound was inaudible inside any noise sensitive premises.
- No live or amplified music to occur outside.
- No external speakers.
- All external door and windows shall be closed by 21:00 hours to minimise the noise the premises, other than access and regress of patrons.
- The noise generated by such plant, equipment, machinery (including, but not limited to refrigeration, extractor unit or air conditioning) shall not exceed the prevailing background noise level.

It was therefore a matter for the licensee to ensure and be bound by these conditions to ensure that there was no infringement of noise levels.

Although the premises was in an area of special conservation that was a matter dealt with by the planning committee and it may be a reason that it may be refused. As far as licensing was concerned it was the four licensing objectives and no rationale has been put forward as to how that factors into any of those objectives.

The licensee has adopted all of the conditions made by the Police and the other responsible authorities, all of whom have withdrawn their objections.

(g) Consideration of the Application by the Sub-Committee

The Chairman advised that the Sub-Committee would withdraw from the Council Chamber to consider the application in private.

During their deliberations in private the Sub-Committee received no further advice from the officers present.

RESOLVED:

That the decision of this sub-committee was that the application for a premises licence in respect of: 117 High Road, Chigwell, Essex IG7 6QQ **be granted** subject to the following conditions:

(1) The conditions which were consistent with the Operating Schedule as varied by the conditions agreed with Essex Police on Page 90 of the Agenda and with Community Resilience on page 91 of the Agenda save that conditions relating to the sale by retail of alcohol (consumption on the premises), late night refreshment (indoors), the opening times of the premises and condition 1 on page 91 are to be further varied:

- Sale by Retail of Alcohol (Consumption on the Premises): Sunday to Thursday 12:00 to 22:30 and Friday to Saturday 12:00 to 23:30;
- Late Night Refreshment (Indoors): Friday and Saturday- 23:00 to 23:30;
- The Opening Times of the Premises: Sunday to Thursday – 12:00 to 23:00 and Friday to Saturday 12:00 to 00:00; and
- Condition 1 on page 91 to be amended: the words “live or” are to be deleted.

The Sub-Committee considered these amendments reasonable and proportionate and will not undermine the licensing objectives. The reason for amending the times in respect of Late Night Refreshments (Indoors) and the Sale of retail of Alcohol (Consumption on the Premise) was so that the conditions relating to the Opening Times of the Premises are met. If conditions of the Licence are breached, the matter can be reviewed by the Licensing Sub Committee and the Premises Licence can be looked at again.

(2) The mandatory conditions contained in Sections 19 -21 of the Licensing Act 2003 were also being attached.

The applicants and the objectors were reminded of their right of appeal to the Magistrates Court within 21 days of date of the written notification of this decision.

CHAIRMAN