

- The customer area for licensable activities had not increased or materially changed.
- The changes to layout related to the toilet, kitchen, servery and back of house corridor areas.
- There was no variation to the hours or conditions of the existing licence.

The application had been received on 1 April 2022. A copy of the existing licence for the premises, the application for variation, the new plan and the public notice were attached in the agenda report. The Responsible Authorities had all received a copy of the application, it was also advertised at the premises and in a local newspaper. All residences and businesses within 150 meters radius of the premises had been individually consulted.

The authority had received a representation from Loughton Town Council and one representation from a local resident. The representations related to the prevention of crime and disorder and the prevention of public nuisance.

(b) Presentation of the Applicant's case

The applicant's representative, Mr Dadds, explained the changes to the internal layout of the premises, as shown on the existing plan and the new plan, which did not expand the licensable area. The applicant had made a significant investment in the premises, which would also offer local employment. No objections had been received from Licensing, Public Health or the Police. The Town Council's representation was detailed on page 43 of the agenda but nothing new could be added to this objection. If the application was granted the premises would open very soon.

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

The Licensing Sub-Committee asked the following questions.

- Would there be an increase in capacity on the seating plan? Mr Dadds replied, no.
- Was there a change to the outside area? Mr Dadds clarified there was no change and the outside area had actually been reduced.
- What were the number of people allowed outside the premises? Mr Dadds advised that this was not part of this licensing application but to do with the planning application.
- Could the internal changes be described again? Mr Dadds reiterated that the changes to the internal layout would facilitate a better flow for the kitchen area with the block design proposed.
- Could the existing conditions to address noise at the premises be summarised? Mr Dadds explained this was detailed in the agenda on page 34 under 'prevention of public nuisance'. This was to ensure music stayed within the premises. The applicant intended to apply for a further variation to the layout on the first floor, so another door could be installed near the fire exit door. Adequate soundproofing had been completed but if it became inadequate then any additional noise would be picked up by the noise limiter, which had been set up by the Council's Environmental Health team.

(d) Questions for the Applicant from the Objector

Referring to the outside area, the Town Councillor commented that previously there had been a number of changes that had increased the outside area and the applications had all been done retrospectively. Mr Dadds replied the variation being applied for today in this licensing application was in relation to the layout plans only. In relation to previous planning applications, this was a separate matter that was not being considered at this meeting.

(e) Presentation of the Objector

The Town Councillor restated Loughton Town Council's objection under the grounds of prevention of public nuisance in order to protect the amenity of residents living in neighbouring properties and that its members believed the proposed variation would result in an increase in capacity and noise pollution, which would be detrimental to the area.

The Council's Legal Officer, R Ferreira, had to advise the objector that several other references she made were not pertinent to this licensing application and therefore, could not be considered by the Licensing Sub-Committee in its determination.

(f) Questions for the Objector from the Sub-Committee

- Could the neighbouring properties be clarified that were referred to in the Town Council's objection and had the noise concerns been addressed? The Town Councillor replied the neighbouring flats were on both sides of the building and there was a house on the other side of the fence, but the Town Council regarded use of the garden as a change of use.

The Council's Legal Officer interjected and advised the Licensing Sub-Committee that this was not referenced in the objection from a neighbour on page 44 of the agenda. The District Council had no evidence of this problem and so could not take it into account as it was prejudicial. The Licensing Manager, D King, advised that despite Licensing Officers asking the Town Council for the five letters of objection it had referenced, these had not been forwarded to the District Council. The Legal Officer reiterated that the District Council could not make any assumption and could not introduce new evidence as it would be prejudicial to the applicant, who had not seen them.

- Did the objector have any comment to make on the conditions in relation to the amenities of the neighbour? The objector replied that a noise limiter would be effective where everything was shut off if there was excess noise.

(g) Questions for the Objector from the Applicant

Mr Dadds did not ask any questions.

(h) Closing statement from the Objector

The Town Councillor was of the opinion the amount of investment made by the applicant on the premises was not a reason to grant the licensing application. The Town Council's objection in order to protect the amenity of the residents living in neighbouring properties had not changed.

(i) Closing statement from the Applicant

Mr Dadds stated that on the amenity of neighbours under the Licensing Act one of the four objectives was to do with the prevention of public nuisance. This application did not undermine the licensing objectives. There had been no material change and there were conditions on the existing licence to deal with noise issues. The building had been reconfigured in accordance with planning, so there would not be a breakout of noise from the premises. The Licensing Authority and Environmental Health had not objected, neither had the Police. The outside patio area was already approved on the plan and had been reduced. On the old / existing plan, the consumption of food and drink and servery went straight on to the garden but would not be there now, which was an improvement. The applicant was always looking to make improvements and ensure there was no breakout of noise from the premises. There was no material change to the licensing operations or licensing objectives. The District Council had not received any of the neighbours' letters from the Town Council. The change of use of the garden was a planning matter. The value of the huge investment made to the restaurant by the applicant was to improve the internal layout and the premises would generate employment.

(j) Consideration of the application by the Sub-Committee

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

The Licensing Sub-Committee considered that the application satisfied the necessary requirements in order to be considered, as it was on the prescribed form, it had been advertised and the relevant notifications given.

The Licensing Sub-Committee considered an application for a variation of the premises licence to allow the layout plan of the Premises in respect of the toilets, kitchen, servery and back of house corridor areas to be varied in respect of the following:

- on the ground floor – the location of the toilets, kitchen servery and preparation area; and
- on the first floor – the reconfiguration of the toilets and the moving away of the bar servery from the toilet area.

The Licensing Sub-Committee took into account the written and oral representations, the four licensing objectives and the Council's Licensing Policy, and the Secretary of State's Guidance. During the deliberations the advisory officers did not give the Licensing Sub-Committee any advice.

The Licensing Sub-Committee also noted that in respect of this application to vary the Premise Licence no representations were received from the Police and/or Environmental Services.

RESOLVED:

That the application to vary a premises licence in respect of Aura, 179-181 High Road, Loughton, Essex IG10 4LF, be **granted** subject to the existing conditions on the licence.

This Licensing Sub-Committee having considered the application to vary the Premises Licence, the representations made, the existing conditions on the Premises Licence, it was of the opinion that the application would not have an

adverse effect on the promotion of the four licensing objectives namely, prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm, and that existing conditions which were considered to be reasonable and proportionate would still uphold the four said objectives.

The applicant and persons who made relevant representations were reminded of their right of appeal to the Magistrates Court within 21 days of date of the written notification of this decision.

The applicant was also reminded that if the conditions of the Licence were breached, the matter could be reviewed by the Licensing Sub-Committee and the premises licence could be looked at again.

CHAIRMAN