

EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 8 December 2014

Place: Council Chamber, Civic Offices, **Time:** 6.30 - 8.27 pm
High Street, Epping

Members Present: R Morgan (Chairman), K Adams, D Dorrell and J Hart

Other Councillors:

Apologies:

Officers Present: K Tuckey (Licensing Manager), J Owen (Licensing Compliance Officer), L Cole (Legal Services Officer), M Richardson (Environment and Neighbourhood Officer) and A Hendry (Democratic Services Officer)

52. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Code of Members Conduct.

53. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

54. APPLICATION FOR REVIEW - IL BACIO, 182 QUEENS ROAD, BUCKHURST HILL, ESSEX

The three Councillors that presided over this item were Councillors Morgan, Hart and Adams.

The Chairman introduced the Members and Officers present and outlined the procedure that would be followed for the determination of the application. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the applicants were Parish Councillor N Cohen, Mr B Dunn and Mr S Kingsley. On behalf of the premises 'Il Bacio', were the proprietors, Mr and Mrs Funedda and their agent Mr N Samaroo.

Mr Samaroo asked the Sub-committee and applicants if he could introduce some new paperwork, containing some background papers and a set of additional conditions that the premises owners were willing to add to their terms and conditions. This was agreed by the Sub-committee and the applicants.

The Licensing Enforcement Officer, Mrs Owen introduced the review brought by Councillor Cohen on behalf of Mr Dunn for a review of the premises licence for Il Bacio, 182 Queens Road, Buckhurst Hill on the grounds of the prevention of crime and disorder and the prevention of public nuisance. This application had been made on 23rd October 2014. It was noted that the application for a review had been advertised as required by the Licensing Act 2003 and representations were received

from interested parties along with letters of support for the premises along with a petition signed by 60 residents.

Essex Police had also responded but had no comments to make in respect of the licensing objectives.

Presentation of the Applicant's Case

Councillor Cohen introduced himself saying that he was a Buckhurst Hill Parish Councillor and that he was also a restaurateur, had owned a restaurant for 25 years in Loughton and was also the chairman of the Loughton Trade Association and had been on both sides of the fence. He had not taken this decision lightly. He had been told that they would be opening a wine bar, Il Bacio Caves, close to his house and decided that he should look into the background of the business so that he knew what to expect. He spoke to residents and was told that there was a problem with the existing Il Bacio restaurant.

He noted that he had since pulled his previous application for a review and had put in a new one.

He had received complaints about noise nuisance about the premises and had noted that the Epping Forest log of complaints did not contain as many as he had known about. He knew that the Il Bacio served customers alcohol after 11pm as he had personally observed this. He noticed that people got quite noisy at night, going home. Was it fair that residents got disturbed at night when they were trying to sleep? He was concerned about the affect on the resident's lives. They could not just get up and move. It was not that easy. Other businesses in Queens Road did not cause these problems as they did not have a forecourt. Il Bacio encouraged people to dine outside at the front increasing the noise. He has also seen the children of customers being allowed to run around the street and play football against the glass frontage of nearby shops. This also caused a lot of noise nuisance.

He noted that big businesses such as Waitrose were not allowed deliveries after 8pm and there seemed to be a disparity there. Customers could sit out for as long as they wished. The residents would like conditions like those imposed on Il Bacio Caves recently. Councillor Cohen then reads out the conditions imposed. In conclusion he supported the restaurant but not the inconvenience to the residents.

Mr B Dunn then spoke, saying that he was a retired policeman and that he had wanted to reiterate what Councillor Cohen had just said. Was this a misunderstanding of the licensing conditions and a disregard of their neighbours? The residents were there before Il Bacio. He had witnessed people drinking at all hours; there were parking violations and noise nuisance. He would like the same conditions put on Il Bacio Caves to be imposed here. Each of the conditions were reasonable and they would keep the restaurant in business.

Mr S Kingsley said that the problem lay with the clientele when they leave the premises. He had a diary that he had kept for two months and he had also spoken to Mr Funedda about this. It was a narrow street and there were issues with people leaving the premises after certain hours; they were loud, noisy and swore loudly. It should be down to the management to deal with this. It has got better recently, but that's because it was not summer; but there were sill some problems.

Questions for the Applicants from the Sub-Committee

Councillor Hart noted that there were letters from residents of Queens Road saying that there were no problems; how many were inconvenienced? Mr Dunn replied that it depended on how close you were to the premises. It affected about a 75 yard radius. As it has been said, with the doors closed there were no problems except when the customers went home. It was noisy in the summer months when they were eating outside. He had never witnessed the proprietor asking his customers to be quiet.

Councillor Hart noted that at the bottom end of the road a lot of residents had complained about the Costa Coffee when it went to the Planning Committee, but in comparison very few had complained about this. Councillor Cohen said they had put in restrictions on the outside play area. This restaurant has the area at the front. The residents here wanted a review and to get this problem out into the open and have their say.

Councillor Adams asked if they had ever seen the management taking any action. Mr Dunn said they had not. They tended to mix with their customers. They were social people.

Mr Kingsley said that he had gone over and complained directly to Mr Funedda, but when he put this to his customers someone said "F**k the residents". Mr Dunn contended that it was the responsibility of Management to control their customers.

Councillor Hart asked where could a customer smoke if they wanted to. Mr Dunn replied by asking why was it his problem, it was reasonable for the restaurant to provide a suitable area for smokers.

Councillor Adams said that there were two aspects to this; a late night noise problem and children being allowed to kick a football around. Mr Dunn replied that families tended to sit outside and their children tended to go next door and kick a football around. He had seen it happen in the evening and into the night.

Questions for the Applicants from Il Bacio

Mr Samaroo asked Councillor Cohen if he owned a restaurant at present. Councillor Cohen said that he had one in Loughton, situated in a shopping environment that closed at 11.30pm.

Mr Samaroo said that Councillor Cohen was experienced in the Restaurant trade and was here to support the local residents as a parish councillor. Why had he not spoken to Mr Funedda on behalf of all his residents about their other establishment, Il Bacio Caves? Councillor Cohen replied that he had gone there with Ms Owen, the Council Licensing Officer, but was told to leave.

Mr Samaroo asked if he went as a Councillor or as a resident. Councillor Cohen said that these people were not the most easy to communicate with. He was thrown out of their premises. Mr Samaroo asked if he spoke to the other residents. Councillor Cohen replied that he had. Mr Samaroo then asked why he thought that Il Bacio Caves was a restaurant when it wasn't. Councillor Cohen said he was concerned and had asked residents about it. But it was also within his rights as a resident to protect his peace and quiet.

Mr Samaroo then asked why Councillor Cohen had withdrawn this original application for a review. Councillor Cohen said that one of the people mentioned in the previous application did not want to be mentioned by name.

Mr Samaroo said that there was a hard copy of the original application signed by Mr Cohen as a Parish Councillor. What had changed his mind about submitting a new application? Councillor Cohen replied that it was not about him as he did not live next door to Il Bacio; he was here to support his residents and had to balance between the residents and the restaurant owners. He was not a malicious person.

Presentation of Il Bacio's Case

Mr Samaroo opened by saying that he was not going to say that this has never happened; you will always get an odd situation like this. This has been embellished to prove a point. This was not a night club; there were no screaming drunken kids. Queens Road was a commercial road and very narrow. The owner purchased the restaurant with permission to have a front terrace. They could have the odd customers that was loud and used bad language or made a bit of noise while waiting for a taxi. But the Police have never been called or any anti social behaviour experienced.

It would have been better if the objectors had sat down with Mr and Mrs Funedda to sort something out.

If the hours are cut back to any extent it would have the effect of closing the business. It makes money in the summer with the extra tables in the front. It keeps them in business. The environmental officer had confirmed that there had been complaints and Mr and Mrs Funedda had tried to help by putting notices.

It's not that they do not care; there have been issues, but the police have never been called. The environmental officer did a study and made some suggestions. If the incidents had been as much as the allegations had suggested then the licensing officers would have visited and tried to sort things out. This is the first time there has been any communication.

Mrs Funedda added that both Mr Dunn and she were parents. They lived over the premises and have two boys, where they did their homework. Her sons were in bed by 8.30pm. She did not understand how he could say what he did. Why did he not acknowledge us? Why does he take photos of her customers? Why does he complain about our rubbish as it was collected every day? His letter put me on the same level as the IRA. We are not the same as the pubs in Princes Road. We have five successful restaurants with no complaints received about any of them.

Questions from the Sub-Committee

Councillor Adams said that Mr Samaroo said that the applicants had embellished a lot of their accusations, but what were their motives. Mr Samaroo said that these issues have just come to light since the application for Il Bacio Caves. Mr Cohen has drummed up complaints because of this.

Councillor Adams said that there were mentions about notices to warn customers, has more strenuous efforts been made? Mr Samaroo replied that they have redone their notices and have put 2 or 3 on the terrace. They clearly state that customers should not annoy the neighbours or drop rubbish etc. this was by way of trying to help and not admit to the alleged problems.

Councillor Morgan asked if the restaurant had air conditioning. Mr Samaroo said they had not; Mr Funedda added that the kitchen was open so there was no need and the restaurant was too small for it. Mr Samaroo added that there was a proposal for their doors and windows to be closed at 10pm.

Questions from the Applicant

Councillor Cohen said that he had been accused of whipping up complaints. Mr Kingsley's dairy had been started in 2013. The Council log has 14 complaints before he got involved.

Closing Statement from Il Bacio

Mrs Funedda in response to the accusation of selling alcohol after hours said that they supplied free drinks to their customers once the bar was closed. They did not charge.

Mr Samaroo said that the Sub-committee had before them the conditions we have proposed. If Councillor Cohen can put it to his people maybe we can come to some arrangement. He appreciated that there had been some problems, but they could go forward from this.

Closing Statement by the Applicant

Mr Dunn commented that it was good to have an intent to resolve this issue. There had been countless complaints by neighbours. They did not want to shut the business down and were asking for the same terms to be applied as was for the Il Bacio Caves and for them to operate in a reasonable manner.

Consideration of the Application by the Sub-Committee

The Sub-committee left the chamber to consider the application. They received no further advice from officers.

RESOLVED:

- (1) That the application for a review of the premises licence for Il Bacio, 182 Queens Road, Buckhurst Hill, Essex IG9 5BD on the grounds of the prevention of crime and disorder and the prevention of public nuisance be upheld only on the grounds of the prevention of public nuisance. The sub committee endorsed some of the additional conditions submitted by the management of Il Bacio, that:
 - (i) The DPS (or representative) shall be stationed outside on the front terrace when in use from 21.00 hours until all customers have left the premises. The member of staff shall ensure that any patrons eating, drinking and/or smoking outside the premises do so in an orderly manner and do not cause a public nuisance.
 - (ii) The number of seated diners on the front terrace shall not exceed 14 at any time. This area to be cleared of diners by 22.00 hours, except for smokers.
 - (iii) All external doors and windows shall be closed by 21.00 hours to minimise the noise breakout from the premises, other than for entry and exit of patrons.
 - (iv) Deliveries and waste collection to be confined to:
07.00 to 18.30 hours Monday to Friday;

08.00 to 13.00 hours Saturdays; and
will not take place on Sundays or bank holidays.

CHAIRMAN