

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON
WALDEN, ESSEX CB11 4ER, on THURSDAY, 14 DECEMBER 2023 at
1.00 pm**

Present: Councillor A Armstrong (Chair)
Councillors G Driscoll and J Moran

Officers in attendance: S Bartram, (Licensing Support Officer) A Bonham (District Environmental Health Officer), N Katevu (Monitoring Officer and Head of Legal Services), S Mahoney (Licensing and Compliance Manager) and C Shanley-Grozavu (Democratic Services Officer).

Also present: T Averre-Beeson (Applicant), N Douglas, R McManus (Essex Police), Councillor R Ramm (Felsted Parish Council) and P Scott-Bowden.

LIC36 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

Introductions were given by all.

LIC37 APPLICATION FOR A NEW PREMISES LICENCE

The Licensing Support Officer presented the report which asked the Panel to determine an application for a premises licence in respect of Rumblebees Bookshop and Music Café at Rumballs Shop, Braintree Road, Felsted, Dunmow, Essex CM6 3DJ.

The application sought to carry out the following licensable activities:

- Sale by retail of alcohol (Monday – Sunday 10:00 – 22:00)
- Performance of Live Music (Monday – Sunday 10:00 – 22:00)
- Playing of Recorded Music (Monday – Sunday 10:00 – 22:00)

In response to questions from the Panel, the Licensing Support Officer clarified the following:

- The consumption of alcohol would still be permitted in the outside area of the premises as it was not a licensing activity.
- The licensable activity would be the sale of alcohol.
- There were 22 seats within the premises.
- The applicant already held a personal licence.

Mr Ronan McManus, Senior Licensing Officer for Essex Police, addressed the Panel.

He said that his main concerns were regarding the licensing for the outside area as this would also result in additional deregulated music, especially in the summer months. Having consulted with the applicant, it was agreed to keep the licensable activities to within the parameters of the inside area. Additional conditions had also been agreed which were reasonable for the nature and type of business, as well as in line with the police's expectations.

He concluded by saying that the granting of a premise licence was not a once in a lifetime decision and the applicant must continue to demonstrate that the licensing objectives have been met. If this was not done, then they risked their licence being brought to a review.

Mr Andy Bonham, Senior Environmental Health Officer for Uttlesford District Council, addressed the Panel. He said that he understood the residents' concerns, and should there be any noise disturbances, the Premises Licence was a living document which could be challenged through a review by Licensing or Environmental Health.

He confirmed that he was happy with the additional conditions from the police.

In response to questions for the meeting, the Senior Environmental Health Officer clarified that Environmental Health were the experts in the field when it came to noise, hence the police had not commented on this.

He was content with the applicant's approach to holding events in the evenings, when the neighbouring business had closed and he believed that one event for up to two hours a month would not constitute as a statutory noise nuisance.

Councillor Roy Ramm, from Felsted Parish Council, addressed the Panel and raised their objections on the grounds of public nuisance. The following comments were made:

- The Parish Council strongly opposed the application.
- The premises were based in the Felsted Conservation Area. It had previously operated as a butchers, hairdressers and delicatessen without any noise disturbances.
- Rumblebees operated within a Grade II property where there were limited options in which to mitigate noise.
- The stress caused from the noise of the business was having a detrimental effect to the mental health of the neighbouring residents and business.
- Music events and alcohol, including cocktail nights, were frequently advertised on the shop's social media account which was a departure from the business selling books.
- Allowing music events after 6pm would be the worst possible outcome for the community and Cllr Ramm urged the committee to consider making concessions so that events were held before 6pm without electric and brass instruments.
- The proposed restriction of performing live music for five minutes would still allow the applicant to play a whole cannon of songs.

Mr Peter Scott-Bowden, a neighbour, addressed the Panel and raised their objections on the grounds of public nuisance. The following comments were made:

- He was speaking on behalf of the neighbouring properties, including the business above Rumblebees.
- When Rumblebees opened, they were granted a premises licence to serve alcohol at book club meetings. At the time, there were no noise issues and neighbours had no idea that the permission would allow the venue to host events such as DJ sets and cocktail evenings.
- There had been a shift in the purpose of the venue which had become a nuisance to the welfare of neighbours.
- Live music plays in the small premises both during the day and night. As there is no sound insulation, this noise breaks into adjoining properties, and is worst in the summer when the doors are opened which extends the noise pollution.
- When events are being held, his family are only able to use 50% of the house, due to the noise reverberating through the walls and their lives have been turned upside down.
- There has been a detrimental impact to his family's mental wellbeing due to the significant stress caused by the noise. The objector had been recovering from cancer and required frequent rest in the afternoon. However, they were unable to rest in bed, due to the noise.
- The noise was also impacting the business upstairs as it was disturbing the clients who were there to relieve stress.

Ms Nicola Douglas, a local resident, addressed the Panel and raised their objections on the grounds of public nuisance. The following comments were made:

- They had been a resident in Felsted for 25 years.
- Rumblebees was a small premise within the Conservation area. There was no sound insulation.
- When the premises was full, the only place customers could go was outside generating more noise.
- There was a beautician upstairs who would continue to be disturbed by the plan for occasional music during the day.
- Directly opposite the premises was Felsted School Medical Centre and there were three pubs within 200m, each with their own premises licences for music and alcohol.
- The business often advertised live music and cocktail events on their social media accounts which do not go ahead due to a lack of support in the community.
- The previous premise holder, Edgeley Estate, may be still trading despite being insolvent as the objector received a receipt with this business name on when purchasing a coffee recently from Rumblebees.
- The residents had not seen the agreed Noise Management Plan, referenced in Appendix D.

In response to questions from the Panel, the objectors clarified the following:

- They referred to DJ sets as a term used to host events where there was a combination of music.
- Ms Douglas had paid for her coffee with cash and, upon request, received a text receipt from Edgeley Estates.

Mr Trevor Averre-Beeson, the applicant, addressed the Panel in support of their application. The following comments were made:

- The applicant and his wife had originally bought the previous business, a hairdresser, and took on the lease of the premises from the former butcher.
- Their intention was to open a bookshop which also sold coffee. This developed into also selling music as this aligned with the applicant's interests.
- The shop shared a party wall with another old building and the applicant accepted that noise did leak next door as a result.
- They received a noise complaint in January 2023 for one of their music nights in which drums were played and accepted that this was highly disturbing to neighbours. Since then, drums have not been played in the shop and the applicant had written to neighbours about various events, but had not received any replies.
- The music events would be an open mic style, without amplification. It would last around two hours and there would be six performers primarily playing the acoustic guitar and singing.
- Rumblebees previously held an alcohol licence, however this lapsed on the insolvency of the premises licence holder, a business owned by his wife, and no transfer application was submitted within the required timeframe.
- Serving alcohol was to create a nice ambience in the shop, and alcohol only represented a very small percentages of sales.
- The premises was small with 22 seats. There were around 45 visitors a day and the majority of customers were older people who came in several times.
- There were very few younger people who visited the shop and those who did were often with a parent.
- The additional evening events were intended to add to the turnover as there was no passing trade at that time of day currently. These varied in success, the last music night attracted 12 people.
- The proposed Noise Management Plan demonstrated their intentions as a business and included a commitment to only holding events in the evening. The intended music during the day would be the applicant playing a song on request, for example to celebrate a customer's birthday.

In response to questions for the Panel, he clarified that:

- The businesses social media was run by the applicant's wife who co-owned the business.
- The Felsted Cocktail Club was run by a Colchester-run company who used the venue. The last event was attended by around 6 people and the applicant did not intend to run the events in future.

- The applicant had previously invited a DJ to play at the premises; however, following the receipt of the noise complaint, he realised that this was unacceptable and had not done so since.
- The Quiz night would run for a maximum of two hours and consist of six rounds of six questions.
- The applicant currently played recorded music in the premises at a low volume, using a domestic system. They had never received any complaints about the volume of this.
- The Open Mic nights were for amateur musicians who were invited to attend and play without arrangements. They did not have any amplifier or microphones.
- The applicant would politely decline brass instruments for their Open Mic nights as the emphasis was on guitars.
- The applicant had not made any effort to introduce soundproofing into the premises as this would not be effective, and it was not possible to find a solution that was both non-intrusive and at a sensible cost.
- The applicant usually attended the events at the business. He said that the social media posts shown to the Panel by the objectors were not reflective of the type of event which took place.
- The applicant opened the shop under his wife and brother-in-law's company as it had a good financial background, but it recently stopped trading for several reasons.

The Senior Environmental Health Officer confirmed that no noise complaints had been received since January.

The meeting adjourned between 14:08 and 14:51

Meeting ended 14.54

Decision Notice

The application before the panel today is for the grant of a Premise Licence in respect of Rumblebees Bookshop and Music Cafe. The application is dated 14 October 2023 and has been made by Trevor Averde-Beeson

The application has sought to grant the following:

- Sale by retail of alcohol: 10:00 – 22:00 (Monday -Sunday)
- Performance of Live Music: 10:00 – 22:00 (Monday -Sunday)
- Playing of Recorded Music: 10:00 – 22:00 (Monday -Sunday)

We have had the opportunity of reading the officer's report on this case, a copy of which has been served on the applicant, the objectors, the supporters and the statutory consultees.

The proposed licensable activities and times are set out in the application form in Appendix A. The proposed licensable activities are therefore for the sale by retail of alcohol between 10:00 and 22:00 Monday to Sunday, performance of live music between 10:00 and 22:00 Monday to Sunday and playing of recorded music between 10:00 and 22:00 Monday to Sunday.

A plan of the premises and of the exterior premises can be found in Appendix A.

The application had been advertised, as required, by way of a public notice displayed at the premises and by advertisement in a local newspaper as well as on the Council's website. 8 valid representations were received from Other Persons, these are contained in Appendices E-L. The representation referred to matters that related to the noise disturbance. In addition, the Other Person raised concerns regarding public safety during live events performed outside.

Copies of the application had been served on all the Responsible Authorities and 2 positive representations were received. A copy of the Police's response is included in Appendices B & C. A copy of the Council's Environmental Health Team is included in Appendix D.

In carrying out its statutory function, the Licensing Authority must promote the licensing objectives as set out in the Licensing Act 2003. These are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

There is no hierarchy of importance among the objectives, and all must be given equal weight.

The decisions that the Committee can make in respect of this application are to:

- Grant the application
- Modify the application by inserting conditions
- Reject the whole or part of the application

When determining an application, due regard should be given to the Council's Licensing Policy and the Secretary of State's Guidance issued in accordance with the 2003 Act. Copies of these documents are before us and our Legal Advisor has reminded us of the requirements of the statutory regime under which we operate.

The Secretary of State's Guidance provides at paragraphs 10.8 and 10.10 the following assistance for members:

10.8 "The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions must be included that are aimed at preventing illegal working in licensed premises."

10.10 "The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions that are

considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions.”

Furthermore, if the Committee’s decision is to impose conditions, the only conditions that can be imposed are those that are necessary and proportionate to promote the licensing objective relevant to the representations received. The Committee should not impose conditions that duplicate the effect of existing legislation.

We have considered the application carefully and have read the documents before us, including written submissions both in support of and against the application and the additional representations from the Other Person. We have also listened carefully to all of those who have spoken before us this afternoon and remind ourselves that no objections have been received by the Responsible Authority.

We have heard from the applicant and from Nicola Douglas, Cllr Roy Ramm and Peter Scott-Bowden, who raised a variety of matters which included public safety, mental well-being and noise nuisance.

We also heard from the Senior Licencing Officer for Essex Police and the Senior Environmental Health Officer for Uttlesford District Council who provided agreed premises parameters and a noise management plan respectively.

The applicant clarified that they have not done any soundproofing at the premises and in any event they might not have the desired effect. They also confirmed that they only allow acoustic instruments to be played.

We therefore grant this application subject to the modification on the hours and an additional condition previously submitted by the applicant as well as the following:

1. Sale by retail of alcohol: 11:00 – 21:30 (Monday -Sunday)
2. No percussion instruments to be played at the Premises.

All parties have a right of appeal against this decision to the Magistrates Court. This must be exercised within 21 days of the date of service of this decision notice. All parties will receive notification from the Legal Department explaining this but in the circumstances, we feel it right to add that we have given our decision anxious consideration and it is the policy of the Council to defend the decisions of this Committee. All respondents to an unsuccessful appeal are entitled to seek their costs of defending, and caselaw suggests they will receive them.

