

Decision of Licensing Sub Committee. Hearing 19 March 2024

Application for a new premises licence at Himalayan Fusion, 128 Seaside Road, Eastbourne, BN21 3PF

The hearing concerned a new premises licence application, for Himalayan Fusion, 128 Seaside Road, Eastbourne, BN21 3PF.

The application was originally for the sale by retail of alcohol on and off the premises every day between 10:00hrs and 23:30hrs, and recorded music indoors every day between 08:00hrs and 00:00hrs (midnight). The opening hours to be 08:00hrs to 00:00hrs (midnight). Seasonal variation, to be until 01:00 on New Years Eve.

Subsequent to the original application, the Applicant varied the hours for the sale by retail of alcohol on and off the premises every day between 10:00hrs and 22:30hrs and recorded music indoors every day between 08:00hrs and 23:00hrs. The opening hours to be 10:00hrs to 23:00hrs. Seasonal variation, to be until 01:00 on New Years Eve. At the hearing, the Applicant's representative, Simon Gordon advised that the hours of recorded music indoors were to be 10.00hrs to 23.00hrs.

In discharging its functions, the Sub Committee considered the promotion of the relevant licensing objectives, the Council's own Licensing Policy, the relevant Home Office Guidance, and the rules of natural justice.

It also took into account, the information contained within the Specialist Advisor's report, presented by Dean Love. He noted that amended conditions had been agreed, between the Applicant and Sussex Police, and those were contained within Appendix E.

In response to questions, the Officer agreed that to his knowledge there had been no closure order at the premises and nor had there been any reviews of previous licences at the premises.

The Sub Committee considered the application and the oral representations made at the hearing by the Applicant's representative, Simon Gordon. Those were that the Applicant had attempted to mediate with the Representor. He stated that the Applicant had reduced the opening and licensable hours in an attempt to address some of the concerns of the Representor. He explained that the Applicant had previously managed licensed premises without any issues. He pointed out that the premises would not be a vertical drinking establishment and that alcohol would only be served with food both on and off the premises. He contended that concerns with parking were not relevant to the licensing objectives. He stated that the Applicant was not responsible, as per the concerns expressed by the Representor, for the alleged anti-social behaviour at other premises in the area. He noted that no Responsible Authority had made a representation.

Due regard by the Licensing Sub Committee was given to the written representation of the Representor, a member of the public. The Representor was not present at the hearing. Those objections included concerns about noise and anti-social behaviour particularly at night.

In its deliberations the Sub Committee considered which decision would be appropriate and proportionate, from the options outlined in para. 8.1 of the Report.

Decision

The Licensing Sub Committee decision was to grant the premises licences with the modified hours, and the conditions agreed between the Applicant and Sussex Police.

Reasons for decision

The Sub Committee considered the relevant concerns made by the Representor, at page 41 of the Report. The Members considered that some of the issues raised by the Representor were not relevant to the licensing objectives, including the concerns that more commercial properties in the area would be likely to cause property prices to go down and the negative impact on parking in the area. The Members noted that the Representor was not present at the hearing.

The Members were content that the grant of the premises licence for these premises, primarily a restaurant, would not undermine the promotion of the licensing objectives. It was considered that the modified hours and conditions would be sufficient to address any future issues.

The Sub Committee also took into account the previous experience of the Applicant in managing licensed premises.

The Sub Committee noted that no Responsible Authority had made a representation.

The Licensing Act 2003 provides a right of appeal to the Magistrates' Court in respect of an application for a premises licence. An appeal must be commenced by notice of appeal being given by the appellant to the Magistrates' Court within a period of 21 days beginning on the date the appellant is notified in writing of the decision of the Licensing Sub Committee.

The decision shall be provided in writing to all parties within five working days of the decision being made.