

**Minutes of a meeting of Mid Sussex District Council Liquor Licensing Panel
held on 14th November, 2022
from 2.00 pm**

Present: Councillors: J Knight (Chairman)
J Henwood
S Smith

Officers in attendance: Paul Vickers, Solicitor
Jon Bryant, Senior Licensing Officer
Alison Hammond, Democratic Services Officer

Also in attendance: Robert Botkai, Solicitor for the Applicant
Simon Chalk, Applicant - Area Operations Manager
Craig Williams, Applicant - Regional Operations Manager
Rosanne Cox, Rosetree Estates
Megan Knight, Rosetree Estates
Terry Stanley, Democratic Services Officer
Lucinda Joyce, Senior Democratic Services Officer

LS.1 TO RECEIVE APOLOGIES FOR ABSENCE.

None.

LS.2 TO RECEIVE DECLARATIONS OF INTERESTS FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

None.

LS.3 TO CONFIRM THE MINUTES OF THE PREVIOUS MEETING HELD ON 27 SEPTEMBER 2022.

The minutes of the meeting held on 27 September 2022 were agreed as a correct record and were signed by the Chairman.

LS.4 APPLICATION FOR A NEW PREMISES LICENCE.

Introduction and outline of the report

Jon Bryant, Senior Licensing Officer introduced the report for the Panel to determine an application for a Premises Licence pursuant to Section 17 Licensing Act 2003 made by Loungers UK Ltd for the grant of a Premises Licence at Unit E, Queens Walk, East Grinstead, RH19 4DW. Seven Interested Parties, who either live at or are connected to the flats had made representations on the grounds of the Prevention of Public Nuisance. The Panel were asked to determine the application in accordance with the Licensing Act 2003, MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

The Senior Licensing Officer advised Loungers Ltd are a national chain with over 170 outlets and the application is for a café/bar at Unit E, one of the commercial units on the ground floor of a block of flats known as Elizabeth House on Queen's

Walk. He noted that two of the Interested Parties had withdrawn their representations following a meeting with Loungers Ltd where revised opening times were agreed. The initial application was for the supply of alcohol 10:00 – 23:59 hours Monday to Sunday, together with Late Night Refreshment 23:00 – 00:30 hours Monday to Sunday. The licensable activity was amended to the supply of alcohol on and off the premises Monday to Sunday 10:00- 23:00. Therefore the Panel were asked to disregard the representations in the report made by Anna Coster and Karen Offord. He confirmed the application had been correctly advertised at the site and in the East Grinstead Courier.

The Senior Licensing Officer summarised the unresolved representations made by the Interested Parties, reiterating that the opening hours had been amended since the representations had originally been received, not all of the Interested Parties had responded when notified of the revised hours. He highlighted that live and recorded music is not regulated entertainment and any issues for noise from live music or construction works would be dealt with under the relevant legislation by the Environment Protection Team. He advised the Panel to disregard any comments in the representations that were not relevant to the application, these included references to individuals' leases and comments that a bar would not be permitted under the flats, noise from building works, live music, and table and chairs outside the premises. As a Responsible Authority the Fire Service had been consulted but not made a representation. Following representations by the Police and Environmental Protection Team the applicant offered further conditions to address their comments and these have been agreed and were listed in Appendix 4. He highlighted a condition offered by the applicants if they did decide to have table and chairs outside the premises.

The relevant representations made by the Interested parties were:

Aaron McDonald was concerned that for those living in the flats above the premises the late serving of alcohol would cause problems of increased noise when customers enter and leave the premises. The amended hours did not resolve his concerns. Francois Conradie was also concerned with increased noise levels due to people gathering outside the premises, they advised they work shifts and has a daughter who is studying. They did not respond to the amended hours. Guy Morris noted he had been in long discussions with the Environmental Protection Team to ensure the businesses in the locality of Elizabeth House complied with the "quiet hours 11pm to 7am" when using the loading bays. He noted that he and a number of the residents had safety critical jobs which requires a good period of quality sleep, and the other businesses close to the flats closed at 7pm. He advised the amended hours did not address his original concerns. Julie Stacey works from home and her partner works shifts and lives directly above the door to the premises. She was concerned with the noise generated by people entering and leaving the premises and the design of Queens Walk amplifies any noise. Any noise generated by the premises will disturb both young and old residents. She also noted the potential impact of people smoking outside the premises on the residents of Elizabeth House. The Panel were advised that smoking is permitted in a public place. She advised the amended hours were not sufficient to address her concerns. Lucy Muggeridge lives on the side of the High Street and can hear when people leave, she works shifts for a public service. She believed granting the application would result in many people leaving the premises making lots of noise, and the residents will then make complaints and action will be taken. She made no response to amended hours. Mallesh Galli lives directly above the premises with his young family and advised he would be directly affected by any noise generated by people entering and leaving the premises. When responding to the new

amended hours, he advised any noise after 6pm was unacceptable, he works from home and the changes were not sufficient to resolve his representation.

Before Rosanne Cox made a representation on behalf of Megan Knight for Rosetree Estates, the Managing Agent for the Queens walk flats, the Senior Licensing Officer addressed the Panel. He highlighted that they had made reference to anti-social behaviour and residents paying to tidy up the grounds around the flats in their representation; licenced premises could not be held responsible for the actions of patrons after they have left their premises. These comments should be disregarded. The Panel were asked to determine the application in accordance with Section 18 of the Licensing Act 2003 (LA03), MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations. Relevant representation must address the four Licensing Objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. He highlighted several paragraphs of the Section 182 guidance: representations are relevant if they are about the likely effect of the grant of the application on the promotion of the licensing objectives; representations can support of or in objection to the application and a representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. The Local Authority had to decide if representations were frivolous or vexatious. He reiterated that the Committee was not there to review the current licence and each application was determined on a case-by-case basis. The final decision made by the Committee could be subject to appeal in the Magistrates Court by any party to the proceedings, and any decision by the Committee should be evidence based.

Members' Questions to the Senior Licensing Officer

The Chairman asked if the applicant had requested table and chairs outside the premises, the solicitor for the applicant advised he would respond in his representation. The Senior Licensing Officer confirmed the premises plan only defines an area inside the premises and the application was for the provision of alcohol both on and off the premises. Condition 9 covers the consumption of alcohol outside the premises and restricts consumption to people seated at tables and chairs. In response to query from Mrs Cox he confirmed the application did not cover the licensing of an outside space.

Robert Botkai, Solicitor for the Applicant

He thanked the Senior Licensing Officer for helping arrange a meeting with the residents of Elizabeth House. He noted that the recently opened Francisco Lounge in Haywards Heath is also part of their chain. A leaflet was handed out to all parties which demonstrated that the premises would be an informal café/bar. Their main business is breakfast and brunch, the evening trade is not their busiest time; they are not a late-night bar or live music venue. They encourage the outlets to engage with local communities and charities/groups providing a community facility with internet connection for patrons and they make a donation to local charities from their opening sales of hamburgers. He advised that at the meeting with the residents on 28 October the residents were informed the application did not include the venue hosting live late-night music, the meeting went well, and a number of residents withdrew their representations. He highlighted that there had been a lot of noise as they are trying to speed up works to open as soon as possible and recent noise had been caused by the installation of an acoustic ceiling which would reduce the transfer of noise to the flats above the premises; any noise from building works was irrelevant to the application. He apologised for any noise disturbance to the residents. He reiterated that the supply of alcohol would end at 11pm and Lounges

outlets were not the same type of facility as Wetherspoon's pubs. Lounges Ltd operate family orientated facilities, they are 80% restaurant and 20% bar and have toys and games for the families to use. They have not concluded negotiations with the landlord to use any outdoor space for tables and chairs; he commented that since Covid people do want to be able to sit outside. Conditions had been agreed that satisfied the representations from the Police and Environmental Protection Team and the late-night refreshments element had been removed. He advised there would be no regulated entertainment.

He went through the representations highlighting where information about the application and premises were incorrect. All outlets have logs to check the premises and keep them clean and tidy. Training will be provided for the 25 local staff who are to be recruited. Patrons can order food through staff or their App. He noted they are "a Food led family restaurant bar, with a sensible operating schedule, tailored to each premises. There would be no vertical drinking inside or outside. They are not a takeaway". He advised they had not been able to reach agreement with RoseTree Estates. The Panel decision must be evidence based.

Questions to the Mr Botkai

Mrs Cox advised she was acting on behalf of the residents of Queens Walk, and any documents issued by Rose Tree Estates did not state there would be live music at the premises. The residents were concerned with opening hours and the information online differed to that given by the Applicant. She asked for confirmation of the opening hours for the café/bar in Queens Walk. Mr Botkai advised each outlet had its own tailored opening hours and webpage. The Chairman advised the Panel would determine the opening hours.

Mrs Cox asked if it would be easy for the Managing Agents to work with Loungers Ltd in the future as a share occupier of the building, quarterly meetings had been suggested and would Loungers Ltd act on residents' concerns. Mr Botkai confirmed it was normal practice to hold quarterly meetings for the first year of an outlet's operation to resolve any teething problems and the meetings were normally well received. He was not aware of any of their outlets having had their licence reviewed.

A Member noted that some people regard smoking as a public nuisance, and with climate change and the increasing temperature, asked where patrons would smoke if there were no tables and chairs outside. Mr Botkai suggested a designated smoking area was not required as fewer people smoke; smoking is increasingly seen to be anti-social and is not expected to be an issue.

In response to a Member's question Mr Botkai advised the nearest food venue is opposite Unit E which has tables and chairs outside, and any outside seating areas at Lounges are designated non-smoking.

Mrs Rosanne Cox, Interested Party

Mrs Cox commented that people may congregate in doorways and asked how they will stop people drinking or smoking adjacent to the premises. She highlighted that any sound around Elizabeth House reverberates around the area and stated that residents have a right to enjoy a safe and quiet home. She noted that a refrigerated unit at the back of Iceland had to be relocated due to the noise at night. She asked the panel to be considerate of the residents when deciding the application and hours.

The Chairman advised the Panel had not predetermined the application.

The Chairman enquired about soundproofing at the premises. Mr Botkai confirmed the drilling into the ceiling to install an acoustic ceiling had caused a lot of noise and would be of great benefit to those living directly above. The recent noise would not be representative of the future noise levels at the premises, there will be low level background music.

Mr Botkai, summed up for the Applicants

He advised that he believed neither RoseTree Estates or the residents were opposed to the licence. It would be unusual for a restaurant to close before 11pm, and the conditions would protect the residents and show Lounges Ltd were taking their concerns seriously. With regard to the number of anti-social incidents the Police would advise if there had been any. Good operators with well trained staff will have a reducing effect on anti-social behaviour. They wanted to breathe life to an area without causing disturbance to the residents. They were happy for any outside area to be designated non-smoking, they would erect signage to advise patrons; it makes it more pleasant for their customers and the residents living above the premises. The outlets have games and toys for patrons to use and is not a live music bar. They wanted to open the premises using the revised operating hours and requested the Panel address the applicants before the end of the meeting if they want to change any conditions.

The Solicitor advised that the Members would retire to deliberate and asked the other attendees to the meeting to remain in the Council Chamber. The Members left the Chamber at 3.07 pm.

The Members returned to the Chamber at 3.15 pm.

The Chairman thanked all the attendees for their representations and advised they had checked the website for Lounge Ltd for the premises and asked them to correct it. He advised the Panel understood the residents' concerns. The application was reasonable and Lounges have appropriate steps. The decision of the Panel was to approve the application with an additional condition, suggested by Mr Botkai, that no smoking or vaping at any time be permitted outside the premises. The Applicants and the Senior Licensing Officer agreed to the extra condition.

RESOLVED

The application for a premises licence was approved with the following conditions:

1. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. Cameras are to cover all trading areas inside or outside of the premises.

The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

2. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer

copies of recent CCTV images or data with the absolute minimum of delay when requested.

3. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all staff likely to be involved in the sale or supply of alcohol will be trained to ask any patron attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form or method of identification that complies with any mandatory condition that may apply to this licence. Signage advertising the "Challenge" policy will be displayed in prominent locations in the premises and shall include the point of sale and the area where the alcohol is displayed, as a minimum.

4. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises

6. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the identity of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the Licensing Authority at all times whilst the premises are open. The record shall be reviewed and signed by the designated premises supervisor at intervals of no more than four weeks and retained by the licence holder for 12 months.

7. An incident log shall be kept at the premises and made available on request to an authorised officer of the Licensing Authority or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

8. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

9. The sale and supply of alcohol for consumption in any external trading area shall be restricted to alcohol consumed at tables and chairs.

10. The premises shall only operate as a café/bar. Waiter/waitress service will be available to patrons at all times.

11. The premises may remain open for the sale of alcohol and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

12. There must be no adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

13. All outside tables and chairs shall be rendered unusable after 2200 each day and brought inside the premises after 2300.

14. There shall be no vertical drinking at the premises.

15. SIA trained and licensed door supervisors shall be employed when a requirement is identified by the licence holder's risk assessment. The written risk assessment will be kept at the premises and made available for inspection upon request by officers of any responsible Authority.

16. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically in regard age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs. Induction training must be completed prior to engaging in any sale of alcohol. Refresher training shall be conducted thereafter at intervals of no more than twelve (12) weeks (this may be verbally delivered). All restricted sales training undertaken by staff members shall be fully documented and signed by the employee and the DPS. All training records will be kept at the premises and shall be made immediately available upon request to the Local Authority Licensing Officers and Sussex Police Officers or Licensing staff.

17. The main entrance doors to the café/bar shall remain closed after 22:00 hours, except when used for access and egress. All other external windows and doors shall also remain closed after 22:00 hours, except when used in the event of an emergency.

18. No bottling out activities outside of the following hours: 08:00 to 20:00 hrs Monday to Saturday; 09:00 to 18:00 Sundays and Bank/Public Holidays.

19. Prominent notices shall be displayed close to the exit doors requesting patrons to have regard to neighbours and to leave the premises quickly and quietly.

20. The licence holder shall invite the local residents to a meeting to discuss any operational issues they may experience every three months during the 12-month period following the opening of the premise. The invitation shall be issued to the managing agents of the building of which the premises forms a part, Rose Tree Estates.

21. No smoking or vaping to be permitted at any time outside the premises.

The meeting finished at 3.16 pm

Chairman